# HE CASE AGAINST BIRTH CONTROL ·

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# THE CASE AGAINST BIRTH CONTROL

BY

**EDWARD ROBERTS MOORE, Ph.D.**

Chairman, Committee on Population Decline and
Related Problems, National Conference of Catholic
Charities. Director, Division of Social Action, the
Catholic Charities of the Archdiocese of New York

Introduction by
PATRICK CARDINAL HAYES
Archbishop of New York

• THE CENTURY CO •
NEW YORK LONDON

**Nihil Obstat**

Arthur J. Scanlan, S.T.D.
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**Imprimatur**

✠ Patrick Cardinal Hayes
*Archbishop, New York*

*June 26, 1931*

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*First Printing*

PRINTED IN U. S. A.

# INTRODUCTION

Some subjects are of importance for a particular profession; others for a particular class or a particular nation. The subject of this book is of importance for the whole human race. Any movement or practice which vitally affects marriage, the home and the family should be a matter of concern to every thinking man and woman.

For centuries restriction of population has formed a topic for discussion among philosophers, economists, statesmen and churchmen. The dominant note in most of these discussions has been a fear of over-population. In each instance, later generations have discerned the short-sightedness of these discussants and have come to look back with a smile at their unwarranted fears.

In recent years the practice of limiting families by artificial means has spread rapidly. A constant propaganda has been carried on to secure legal, medical and moral sanction for this practice. It behooves those who are interested in the welfare of individuals and of society to penetrate the mists of emotion and sentiment with which this subject has been enshrouded, and to examine this propaganda in the clear light of reason and revelation.

Last December, His Holiness, Pius XI, in his notable Encyclical on Marriage, expressed unusual concern upon the importance of this situation. In no uncertain terms he stated the damning effects of this practice upon the human soul: "Any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life is an offense against the law of God and of nature, and those who indulge in such are branded with the guilt of a grave sin."

In addition, however, there are other evil results which directly affect the individual who participates in such practices and which indirectly affect the society of which he is an integral part.

Realizing the significance of the movement for birth prevention, the National Conference of Catholic Charities about two years ago appointed Doctor Edward Roberts Moore to be chairman of a Committee on Population Decline and Related Problems. Under his direction an exhaustive investigation was initiated to ascertain the medical, social and economic results of artificial birth prevention. The demand for this information has been so insistent that it was decided to facilitate its distribution by publishing the findings in book form.

The facts herein set forth merit very serious consideration. Men of high standing in the medical field attest to the fact that definite physical harm can, and frequently does, result from contraceptive practice. The various Malthusian and neo-Malthusian theories which falsely hold that there is an alarming possibility of insufficient food for the human race are held up to the light of facts and sound reasoning. The weight of evidence regarding the world's food supply shows these theories to be untenable. The book further points out how small families and childless marriages are lessening the great body of consumers which has been the basis of our country's progress and prosperity.

The degenerating social effects of contraceptive practice and the need for a strong public policy regarding births should deeply concern any one interested in the welfare of our nation. Insidious indeed is the moral danger of presenting to our young people the methods of avoiding conception. When this is accompanied by an approval of sex enjoyment as an end in itself, it undoubtedly promotes laxity in sex relations, if not promiscuity itself.

These considerations bear out and substantiate Christian principles. They are here set forth for the enlightenment of many who may never before have realized the full import of even a qualified approval of something which is inherently wrong, and also to make still firmer the convictions of those who have consistently opposed the spread of this dangerously evil practice.

✠Patrick Cardinal Hayes
*Archbishop of New York*

*The author wishes to acknowledge with genuine gratitude the substantial help which he has received from the many whose assistance he has been privileged to enjoy.*

# CONTENTS

## PART I

## INTRODUCTORY

CHAPTER PAGE

I The Refusal of Parenthood . . . . . . 3

## PART II

## THE MEDICAL ASPECT

II Stop! Look! Listen! . . . . . . . . 15

III Contraception and Health . . . . . . 21

IV Some Further Phases of Contraception . . 32

V Abortion and Sterilization . . . . . . 47

VI The Doctor and the Law . . . . . . . 59

## PART III

## THE POPULATION ASPECT

VII The Recurrent Fable of Overpopulation . 71

VIII The Alarmists and Their Theories . . . 88

IX One Theory: Absolute Overpopulation . 92

# CONTENTS

CHAPTER PAGE
X Another Theory: The Law of Diminishing Returns . . . . . . . . . . 102
XI Is the World Too Crowded? . . . . . . 108
XII Is the World's Cupboard Bare? . . . . . 123
XIII The Optimum Fantasy . . . . . . 136
XIV The Contraception of Consumers and of Prosperity . . . . . . . . . 142

## PART IV

## THE SOCIAL AND MORAL ASPECTS

XV The Two-Child System . . . . . . 157
XVI The Break in the Dike . . . . . . 179
XVII The Moral Wrong of Contraception . . 191

## PART V

## THE PUBLIC POLICY ASPECT

XVIII The Law and Its Enforcement . . . . 207
XIX The Life of the State . . . . . . 225
Appendices . . . . . . . . . . . . 235
Index . . . . . . . . . . . . . 305

# *Part I*

# INTRODUCTORY

# *Part I*

## CHAPTER I

## THE REFUSAL OF PARENTHOOD

JUST how widespread is the practice of birth-prevention there is no way to measure exactly. That it is very widespread no one can doubt. It has been said by one observer that the drug-stores of the country by the contraceptive devices they dispense over their counters are preventing more lives than all the remedies for illness and disease which they distribute could ever save. Legal restrictions to the contrary notwithstanding, the manufacture and sale of these appliances goes on unchecked on a very large scale. A far-reaching commercial campaign, carried on through every medium of advertising, makes readily available the knowledge of contraceptive devices and the sources of their supply.

An industry that is carried on in contravention to the law of the land is an unhealthy anomaly in national life. When the industry affects the whole structure—civil, social, economic, moral—of the nation, its existence raises a very important question of public policy.

In this volume the results of an analysis of this curious situation are presented. Its roots are found in emotional propaganda and mistaken self-interest. The array of facts and professional opinion gathered points to the conclusion that a program of birth-prevention on the basis either of public policy or of individual well-being is unsound. This is indicated by the disastrous consequences of previous attempts at restriction of population; by the present downward trend in population and the calamitous consequences of a declining population; by the devastating social effects of an unrestrained traffic in contraceptives; by the physiological and psychological toll exacted by Nature in retribution for interference with her processes; by the intrinsic evil of contraception.

It is important, first of all, to call attention to the inappropriateness of the term "birth-control" as commonly utilized in the public press, current periodicals, and even quasi-scientific discussions. Nature herself "controls births" in more ways than one. The period of gestation comprises a considerable portion of a year. This in effect "controls births" to that extent. Nature controls births also by usually limiting offspring at a single birth to one, though occasionally allowing twins, and on occasions of rarity sufficient to make it a matter of news, triplets or quadruplets. Finally, Nature controls births by limiting the period of female fertility. All this is "birth-control" and, far from being contrary to Nature, it is Nature's own provision.

It is quite proper that man should go still further in the control of births. There is no law by which parents are constrained to have as many children as possible. Situations do occur in which the best medical opinion is agreed that to have another child would be gravely prejudicial to the health of the mother. Acute financial distress happens all too frequently. For reasons of their own, parents may wish to limit their families. But this they may do, not by availing themselves of the marital privilege while at the same time they deliberately obstruct its consequence, but by refraining from the conjugal relationship. This too is birth-control—but by self-control.

Propaganda is of its very nature special pleading, and is largely inspired by emotion. It therefore inclines to the presentation of extreme aspects of a situation. Birth-prevention propaganda offends especially in this regard. Harrowing details are given of families in distress. Pitiful letters pleading to birth-control clinics for aid are circulated in appeals for monetary support of the birth-control movement.

But it is a sound legal principle that legislation should not be based upon individual cases, nor rest upon abuses. It should be framed with due consideration for the generality of the people, and for normal or average conditions. Public policy should envision the whole of the body politic, not individual members thereof.

Furthermore, the propaganda for birth-prevention should be carefully evaluated even in its most humanitarian aspects. There are indeed many unfortunate families—but are children to receive all the blame? And is birth-prevention the panacea? Does not much birth-prevention propaganda rest on the assumption that the poor have no right to children because they cannot support them, while the rich may have all they wish? Would not propaganda for a more equitable distribution of wealth so that *all* might exercise their natural rights be far more logical? Is not the movement for birth-prevention, which claims to have its inspiration in love for the poor, in its essence really a class movement in that its success makes less vital a readjustment of wage-scales? Does it not in the long run favor the rich and not the poor? As a recent editorial in the "Medical Times and Long Island Medical Journal" said: "Far better than birth-control would be such a reordering of our economic life as to make it possible for people to have more children and rear them in keeping with their normal and proper need. . . . It [birth-control] is really drugged candy cunningly offered to the slaves of the industrial machine, robbed of the high potentialities of marriage under decent conditions, particularly a more rational distribution of the world's wealth. . . . Thus the survival of our precious social system will be insured, for a time at least, by a more complete offering of hostages to our latter-day Minotaur."

One of the factors rendering an adequate discussion of the whole question of birth-prevention so very difficult, is the tendency on the part of each of several community groups to look upon it as something wholly within its own sphere, and to resent as an intrusion any discussion by other groups. The result is that the question is seldom considered in its entirety, and very few people realize its far-reaching implications. Since general conclusions drawn from limited personal experience or resting upon data that touch but one phase of a problem are likely to be unsound, this fact is extremely unfortunate. When coupled with the emotionalism with which the whole present issue is surcharged, it is disastrous.

It would be unfair to characterize as insincere many who have been instrumental in the wide extension of birth-control propaganda. The typical leader in the movement "to free women from the slavery of repeated child-bearing" is the humanitarian who sees about her widespread misery, particularly in crowded urban centers. She goes into homes where the breadwinner is ill; where, instead of being the provider, he is a constant drain, not only upon the monetary but also upon the physical resources of his helpmate. It may be that there already is a considerable family. To provide even the bare necessities of life for this family will be a problem. To do anything further than to supply the most elementary needs is utterly out of the question.

She goes from door to door, behind which are situations of this kind, from family to family so circumstanced. Perhaps outside of her own social circle, she does not come in contact with the happy, prosperous families, or even with those who may not be prosperous according to accepted standards, but who may be happy in the successful battle they are waging to preserve their independence and their self-respect. As the doctor is called in not to the healthy but to the sick, so she goes to the homes not of the successes but of the failures, and the cross-section of life she sees is very likely to become one in which suffering, trial, hardship, disappointment, sorrow, and tears predominate to such a degree that sunshine and joy are crowded out and lost sight of entirely.

She is very likely to form a conclusion, perhaps even an unconscious one, which will far overestimate the proportion of domestic unhappiness to happiness, and of failure to success, and accordingly to build her ideas for the reconstruction of the community upon this overemphasis in her mind of but one phase of life. So in the name of "modern science" she proposes a remedy, forgetting that science, if worthy of the name, does not draw its conclusions without an examination of all the facts.

A birth-control propaganda volume of relatively recent date contained 289 letters from mothers asking for the help offered in a birth-control clinic. Dr. A. W. Ausems, the well-known European authority, declared that he could not find "a single normal mother among them. . . . Yet," he says, "on the basis of the subjective feeling of these 289 mothers, Mrs. Sanger recommends this neo-Malthusianism to thousands and thousands of robust, normal mothers."[1]

This is a consideration that the sincere humanitarian should not overlook. Nor must she make the mistake of ascribing unemployment to overpopulation. A declining population will not help her families, but will multiply and magnify their difficulties by resulting in a downward trend in all the factors that contribute to the maintenance and improvement of the scale of living.

She cannot be expected to have the knowledge that members of the medical profession possess and as a result perhaps will not think of the many ill effects that outstanding authorities hold as possible when the attempt is made to separate the process of reproduction, by nature a unit, into two distinct parts, allowing the one and eliminating the other. She scorns as unwarranted interference pronouncements that contraception is immoral: "What," she will say, "can be immoral that is so essential to the alleviation of the suffering of the poor? Let the Church stay within its own field!"

This woman is not by any means alone in her failure to consider every angle of the question. The economist will talk in terms of per capita income, wages, rent, interest, and the like, and will rest his judgment upon the balance with which his calculations provide him. Persons of the type of the woman in question frequently leave him out of consideration. He, on the other hand, is prone to make too little allowance for human nature, and to permit his line of reasoning to be determined entirely by abstract factors, forgetting that human nature is not something that can be placed in a test-tube and analyzed to its ultimate constituent; forgetting also that human conduct is an imponderable whose reactions to an infinite number of stimuli cannot be predicted with mathematical accuracy. He is likely, too, not to give due consideration to the physiological phase of the question, nor to consider it a matter for theological discussion. For him, public policy with regard to birth-prevention will be a matter of population and economic trends.

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[1] Address, National Congress Against Neo-Malthusianism, Nymwegen, Holland, August, 1929.

The medical profession is accustomed to warn trespassers upon its territory as from holy ground. When a lay person attempts to pass judgment upon medical techniques, this attitude is entirely justified. Contraception involves a medical technique. According to the form in which it may be practised, it involves processes with physiological and psychological bearing upon the individual. No layman or laywoman should presume to venture in this field. The human mechanism is too complicated, the limitless number and variety of its reactions too intimately associated one with the other, and too interdependent, for any complete analysis, even by the most highly scientific and trained mind. The non-professional person who sees in one or another contraceptive merely a means of preventing conception but who knows nothing whatever of the many reactions and complicated processes that he is setting on foot has no right in this field. When the medical profession protests against such unwarranted intrusion, it is doing a service to mankind. It would have done a greater service to mankind than it already has, if it had made its protest so emphatic as to have silenced before this the propaganda which has resulted in the unscientific advocacy of contraceptive practice among untold thousands who have no knowledge of its dangers.

When, however, the doctor claims exclusive right to discuss contraception, leaving out of consideration questions of public policy, of the continuance of races and of civilization, of social well-being within a community, and tells the theologian that the question is none of his concern, he is being just as illogical as are members of other groups who arrogate to themselves the sole right of passing judgment on the merits of the case.

The churchman speaks in terms of the morality of the act. He may indeed consider the other aspects of the question. In fact, since he is concerned not alone with the spiritual but also with the material welfare of his people, it is his duty to study the question as a whole. Like all the others, he too must guard against the making of authoritative declarations in fields other than his own. Unless he does so, he will expose himself to well-merited criticism.

Birth-prevention is a problem that concerns every one in the community: the wealthy board-member of a social-service organization, the workers on the staff of such an organization; the economist; the physician; the priest and the minister and the rabbi —all of these, and all the others who help to guide the destinies of the community. And every one else who lives in the community. *Every one.* But no one of these must consider it solely his own problem. That would be to paint an arm in one picture, a leg in a second, and a torso in a third. There must be but one picture, and it must be complete. All the experience of the past—birth-prevention is no newly conceived solution of the problems of the poor, much less of the race; implications of present theories; the consequences for ourselves, our children, and our children's children: we must think of them all. Nor can we allow ourselves to be misled by the emotional appeal, no matter how subtle, how sustained; no matter, even, how sincere.

# *Part II*

# THE MEDICAL ASPECT

# *Part II*

## CHAPTER II

## STOP! LOOK! LISTEN!

THE "Journal of the American Medical Association," the most representative and official organization among the members of the medical profession in the United States, contains in its issue of May 17, 1930, an interesting case-history reported by Dorrin F. Rudnick, M.D., of Chicago, Illinois. We quote from the "Journal":

> "An intelligent white woman, aged 22, married, was delivered of a normal full-term baby, Oct. 26, 1929, at the Cook County Hospital. Following delivery she returned weekly to the postnatal clinic and her course, as well as that of the baby, was normal and uneventful.
>
> "During the latter part of February she received a letter from the Medical Bureau of Information on Birth Control located at 190 North State Street, Chicago, requesting that she appear at their offices regarding her child. Not understanding the nature of the request, she deemed it wise to call as requested. When she arrived at the office mentioned, some woman, presumably a nurse, at least so attired, and addressed as "Miss," entered into a lengthy discussion with her on birth control, its desirability and the various means of accomplishment."

The report goes on to state that the patient purchased the contraceptive device recommended for the sum of three dollars, and was given instruction for its use by the nurse at the Medical Bureau of Information on Birth Control. This also cost three dollars. In addition she was given a prescription which she had filled at a designated drug store.

In the first attempt to follow the advice that had been given to her, she experienced difficulty. Subsequently she suffered considerable pain, and feeling that something was wrong, attempted to remove the device but could not find it. Within two days complications had begun to set in, and the woman returned to the office of the Medical Bureau, where she was advised to go home and take some simple remedy. When this brought her no relief, she went back for further advice, and was directed to an X-Ray laboratory. A flat roentgenogram revealed the preventive far removed from its intended position.

The patient went to the Cook County Hospital and was admitted to the urologic service. The clinical record goes on to state that a cystoscopy was required definitely to locate the device, which was then, with considerable difficulty and by the aid of various instruments, eventually removed.

It is not necessary to make any comment on this case. The record tells of a woman who did not seek information on the avoidance of conception, but who was sought out by the Birth Control Bureau. It tells of her visit to the Bureau, and what took place on that occasion. It tells of the unfortunate consequences of her visit: acute suffering and hospitalization. It relates also the critical condition, dangerous to life itself, that resulted from the gratuitous interference with the woman's normal way of life.

Directly following the report of the above case, Dr. Rudnick comments:

> "A wave of publicity concerning contraceptive methods has spread over the country, instruments being offered to lay people which can become dangerous in their hands. Every statement in this report has been taken from the Cook County Hospital record."

This case is cited merely in order to hold up before the reckless and unthinking person the *Stop! Look! Listen!* warning. The brief words of comment by Dr. Rudnick to his fellow-doctors are significant enough.

Approach by one who is not himself in the medical profession to a discussion of contraception in its medical aspects must be made with great reserve. The medical profession, often recklessly quoted in support of one or the other opinion on this much-controverted subject, may well protest at unwarranted trading upon its prestige, and condemn dogmatic medical declarations emanating from lay sources.

No such dogmatic pronouncements are to be set down in this book. Nor will any attempt be made to establish a thesis that the medical profession is preponderantly opposed to birth-control. No such poll of the medical profession as a whole has ever been made; since medical men are extremely reluctant to express opinions for publication, it is probably not too much to say that no such poll ever could be made.

The medical aspect of contraception is complicated in the extreme. Any expression of opinion to be of value must be founded upon solid and worth-while experience. Not every practitioner will have had a sufficient amount of such experience. Even gynecologists and obstetricians, whose daily practice brings them constantly in contact with the problems involved, hesitate to speak with finality.

The field has not yet been fully explored. The physiological and psychiatrical aspects of contraception still require wide research. Sex and sex-relationship are concerned with so many complicated factors, are so involved with our whole physiological and neurological systems, are so intertwined with psychic nuances, that only the most patiently schooled and thoroughly skilled specialist could presume to speak with authority—and the chances are that he will not! Let lay propagandists beware lest they rush in where men of science fear to tread, and open the whole Pandora's box of scourges upon the human race; let even those members of the medical profession who have not made long and careful study in this particular field watch with the utmost care that they may not be as the blind leading the blind so that both fall into the pit.

It is a *Stop! Look! Listen!* warning that we would utter. The medical profession is divided. There are, however, few doctors of high standing who are willing to make definite statement that contraception is safe and harmless. The most that any of them feel that they are entitled to say even vaguely in favor of contraception, is that in their practice they have not observed ill effects. This has been definitely the case in a recent inquiry instituted among leading gynecologists and obstetricians in many of the large urban centers, particularly east of the Mississippi, in the United States. Few were found to give any endorsement to contraceptive practice. Almost all had at least seen cases in which ill effects appeared to follow from contraceptive practice. Many were outspoken in their condemnation.[1]

In Europe, where perhaps further study has been made than in the United States, emphatic condemnation of birth-prevention has emanated from many distinguished members of the medical profession. In both Europe and the United States sterility is spoken of as a probable resultant of contraception. Measured and weighty judgment has been expressed of the probability of close connection between contraception and cancer. A shocking number and variety of pelvic infections would seem to be associated with the several preventive measures in most common use. Neurologists and psychiatrists talk in terms of neuroses and psychoses as a result of the refusal of parenthood.

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[1] The questionnaire circulated among this group is contained in the appendix to this volume. Following it is a sample set of answers, arranged by geographical distribution. Since the purpose of the inquiry was to get a cross-section of opinion rather than the opinion of individuals, even though of weight, and since the unwillingness of medical men to be quoted in print is well known, a guarantee was given that the identity of those replying to the questionnaire would be carefully guarded. This arrangement had the additional advantage of leading to a much fuller and more free expression of opinion.

These conclusions are not unanimous. On the other hand, neither are they based on isolated expressions from unauthoritative or undistinguished sources. Though there are some members of the profession who endorse contraception, there is so large and so representative a cross-section of the profession that fears and condemns it, that the prudent man or woman will heed the warning.

It is not enough to think that no train is bearing down upon the unguarded crossing. One must be sure! So with contraception. It is true that no final medical judgment has been passed, but scores of prominent witnesses make a strong case against it. In the following chapter a number of these discussions will be presented.

## CHAPTER III

# CONTRACEPTION AND HEALTH

*THE injurious effects of different contraceptive methods are at last appearing in medical literature. . . . All known methods of contraception are harmful to the female; they only differ in being more or less so.*"

This sweeping statement (contained in the March, 1931, issue of "National Life") comes from the pen of Frederick J. McCann, M.D.., F.R.C.S. His authority may be inferred from the fact that Dr. McCann is consulting surgeon, Samaritan Free Hospital for Women, London; consulting gynecologist, West End Hospital for Diseases of the Nervous System, London; vice-president, Chelsea Clinical Society; and former president, West London Medico-Chirurgical Society. Dr. McCann has also written extensively on the subject, being the author of "Contraception a Common Cause of Disease"; "The Effect of Contraceptive Practices on the Female Sexual Organs"; "The Dangers of Contraception"; "Female Sterility and the Ductless Glands"; "The Treatment of Common Female Ailments" and other writings.

This distinguished gynecologist sounds a warning echoed by many other eminent members of his profession. Dr. Sigismund Peller, the Viennese specialist, has no hesitancy in saying that "scientific medical men are against the limitation of reproduction." [1]

A veteran gynecologist, Dr. M. A. van Bouwdijk-Bastiaanse, of Amsterdam, at a meeting in Nymwegen in 1929, declared contraceptive methods advocated by the new Malthusianism a failure from the viewpoint of medical hygiene. After stating that there is not a single preventive at all times and surely uninjurious, he proceeds to mention as among the possible serious consequences from the use of contraceptives, inflammation or cancer of the neck of the womb, sterility, and in some cases death. He then adds that danger to the health of the woman, even to her life, whether direct or indirect, is bound up with the new Malthusianism, and exceeds by far the danger connected with pregnancy and childbirth. He concludes by saying: "That many, perhaps most scientists in this field agree with me regarding the effect of the use of contraceptives on the health condition, especially of women, can readily be shown by many quotations, for instance from Dr. Max Marcuse, editor of the *Handwörterbuch der Sexualwissenschaft*. In a conference of the 'Internationale Gesellschaft für Sexualforschung,' he says: 'It has been fully established that—apart from the wounds and dangerous infections to a woman's sexual organs by reason of the use of certain instruments or means to which recourse may be had—contraceptives may injure the health of those regularly using them.' "

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[1] S. Peller, "Fehlgeburt und Bevölkerungsfrage," Stuttgart, 1930, p. 1.

Another witness of weight is Professor Sellheim of Leipzig University. In an address which he delivered as chairman of the German Congress of Specialists on Woman's Diseases held in Leipzig in May, 1929, Professor Sellheim said: "Nearly every method to prevent pregnancy has, at least as far as the woman is concerned, a not inconsiderable injurious effect upon health. Nature cannot be fooled. Continuous but vain irritation of the woman's sexual organs makes the woman more or less subject to illness in the abdominal tracts, and not infrequently sterile."

Professor Kouwer of Utrecht calls contraception "the birth-strike," and declares that it involves fundamental risks to the health of those who wish to separate sexual sensation from the biologically natural consequences of sex-relations. The same conviction was expressed by eleven members of the British National Birth Rate Commission, who affixed their signatures to the following unreserved condemnation of contraception:

"Medical evidence has been given that all unnatural modifications of marital association, and all artificial contraceptive methods by mechanical or chemical contrivances, if habitually employed by normally constituted individuals, are harmful."

These quotations are but a few of many in the same vein. The appendix contains others. In the recent inquiry as to the effects of contraceptive practices, which was mentioned in the last chapter, many of the gynecologists and obstetricians consulted agreed with the apparently prevailing opinion among European authorities that sterility regularly follows as a consequence of the habitual practice of contraception.

Dr. Edward Reynolds of Boston, in his brochure entitled "Practical Points and Common Errors in the Treatment of Sterility," says: "Many cases are seen in which prudential prevention of pregnancy in early married life has set up consequences of congestion which persist after pregnancy is desired." A distinguished specialist in Pittsburgh says that in his opinion "about 45% of sterility is due to contraception." A well-known New Jersey doctor confirms this opinion in these words: "In looking over the last thousand office cases, I notice that prevention of conception during the first year or two predisposes the woman to excessive stoutness, and then, when a child is desired, sterility has taken place. . . ." An experienced physician of Providence declares that contraceptive measures "induce sterility by pathological changes in the genital and pelvic organs."

Of particular importance are the views of members of some of the more authoritative medical faculties, to the effect that the use of contraceptives in the first few years of married life gives rise to conditions that render young women infertile when later on they desire children.

From the veteran chief of the department of obstetrics of a great medical school comes this statement: "There would seem to be no question but that the use of contraceptive measures of various sorts in many cases results in abnormal conditions of the pelvic organs which render future conception unlikely and in some cases impossible."

A substantial volume of evidence, therefore, indicates that the sterilization of the female is one of the principal physiopathological consequences of contraceptive practices. The explanation, according to the preponderance of testimony by men of authority in the several branches of medicine, lies in the fact that where contraceptive practices are constantly employed, particularly in the early years of marriage, a condition is set up involving the thickening of the Fallopian tubes and chronic pelvic congestion. This lays the foundation for ultimate sterility.

Dr. McCann carries his explanation of the same phenomenon even further. "Sooner or later," he says in "Contraception a Common Cause of Disease," "a woman continually deprived of the full physiological value of sexual union develops important changes in her genital organs. In the uterus there is a slight uniform enlargement, with uniform softening of the cervix and body. This condition I have named 'The Malthusian Uterus.' " Furthermore, continues Dr. McCann: "I have long believed that important changes are produced in the ovaries by continued contraception. . . . Now one of the most distressing consequences of contraception practised from the beginning of married life is either delayed fertility or sterility if and when contraception is abandoned and children are desired. . . . This sterility is doubtless due to changes produced both in the ovaries and in the uterus. *There is then clinical evidence and experimental evidence to prove that continued contraception hinders and may ultimately destroy the egg-producing power of the ovaries and the egg-bearing power of the uterus.*"

Much testimony to other undesirable consequences of contraceptive practice is to be had. Some of the great names in the field of medical instruction are known to disapprove on medical grounds of the prevention of pregnancy as advocated by professional contraceptionists. Special emphasis is laid upon neurological, psychological, and psychiatrical ill effects. The avoidance of parenthood generally would seem to give rise to a variety of conditions affecting the nerve-fiber of one or both individuals. What are called by some writers "emotional toxins" are stimulated, and remain a source of trouble to the nervous system until such time as they can be eliminated or absorbed through painstaking rebuilding. They are a cause of functional disorders or derangements of the nervous tissue, and are described as the consequence of prevention of conception during frequent intercourse. As will be indicated later, these, as well as the psychiatrical and psychological ill effects, follow more regularly upon the use of some methods than upon that of others. It appears, however, that they are likely to be the effect of any systematic interference with the process of conception.

The prevention of the normal consequence of intercourse gives rise not only to strictly neurological situations but also to psychological and psychiatrical conditions. Perhaps the most evident and easily recognizable consequence of childlessness is a sense of frustration. This in turn gives rise to numerous other disorders. These effects are likely to be heightened by vain regrets and remorse when the childlessness has been the result of deliberate prevention of conception that was found, when a child was desired, to have culminated in involuntary sterility. The number of such cases is naturally difficult to calculate, but no specialist is without some experience in dealing with them. The proportion must be considerable among those in the fourth and fifth decades of life, when the realization of childlessness, with all that it means, is beginning to raise specters of an old age of loneliness, regret, and possible privation and dependency. Many of the strains and stresses that give rise to psychiatric conditions are easily traceable to childlessness. The lack of an adequate bond between husband and wife in the form of children not infrequently serves as the initial factor in creating a mental disturbance of greater or less gravity. To the extent, in such cases, that childlessness is the result of contraception, the latter must evidently be considered as indirectly or secondarily responsible for the occurrence of mental disorder.

In this connection the Pittsburgh surgeon already quoted may again be called upon to testify: "I should say that very definite conditions have been observed following the use of all types of contraceptives, as well as contraceptive measures. . . . There are undoubtedly cases where neurological or psychiatrical results of an undesirable character are unmistakably attributed to the use of such devices or practices."

This whole phase of the discussion is emphatically summed up by Sir Robert Armstrong-Jones, M.D., F.R.C.P.S., Lord Chancellor's visitor in lunacy, and specialist in mental diseases. "Birth-control," he said, presiding at a recent meeting in London of the People's League of Health, "leads to lunacy in women. If you are to have birth-control on a large scale you will have to add to your lunatic asylums for the mothers. The absence of children leads to neurasthenia in married women, and that leads to insanity. I know from my own practice that that is a fact."

That cancer may follow as a result of contraceptive practice is a not uncommon medical opinion. This much may be said without fear of contradiction: Cancer may, and undoubtedly does at times, result from the use of some types of contraceptive apparatus; from other types, it may occur, if not directly from their use, at least from mishaps and lack of skill in their application. Moreover, few if any women are capable of so adjusting the various appliances devised for use by the female as to escape the possibility or even the probability of such mishap.

The case-record from the "Journal of the American Medical Association," given at the beginning of the preceding chapter, is a perfect illustration of this fact, the reason for which is obvious to any one acquainted with the appliances recommended and their use. There are outstanding authorities, however, particularly in Europe, where greater progress in genuine research along these lines has been made than in the United States, who do not feel it necessary to distinguish between use and misuse in ascribing cancer as a direct result of the practice of contraception. In this connection, reference may be made to the authoritative encyclopedia of Halban and Seitz, "Biologie und Pathologie des Weibes," Vol. IV, pp. 668 ff., concerning the extent to which inflammation due to the employment of preventives may aggravate conditions leading to cancer of the uterus.

Dr. M. A. van Bouwdijk-Bastiaanse, quoted above, gives added testimony on this point: "In my preliminary note anent the population problem . . . I pointed to the possibility that the large increase in cervical cancer may be due to the wide use of contraceptives. On theoretical grounds, such connection is certainly not impossible. Although but little is known regarding the direct cause of cancer, it is admitted that cancer may be caused by long-continued irritation, produced by a foreign body in contact with the cervix, or through continual vaginal flushing using chemical elements. . . . I have . . . stated that inflammation of the neck of the womb results not infrequently from the use of preventives. *That such* *inflammation may in turn lead to cancer is mentioned in nearly all scientific publications dealing with this subject.*"

Dr. McCann may be quoted in this connection also. In his brochure, "The Effect of Contraceptive Practices on the Female Sexual Organs," he writes as follows:

"When a woman prevents pregnancy, or when a woman after the birth of one or two children prevents pregnancy, she has an increased tendency to develop certain diseases which are associated with sterility or limited child-bearing. . . . Whether fibroids are the cause or the consequence of sterility is still a debated question, but the available evidence does favour the view that both sterility and diminished fecundity favour the growth of fibroid tumours. . . . The sterile, or relatively sterile, woman has a greater chance of developing cancer of the body of the uterus. . . . There is, also, evidence that those women who are sterile have a greater tendency to develop ovarian tumour than those who bear children. . . . Moreover, the liability to ovarian tumours decreases with each succeeding pregnancy." [2]

It would seem, then, that there exists wide agreement that certain important pathological results follow from the practice of contraception, particularly in the case of the female. The male may also suffer, particularly from the use of certain of the more common methods. Habitual excess in coitus, frequently concomitant with contraceptive practice, may result in neurological disturbances, and sometimes in virtual impotency. In the female, though in the early years of married life she may have freedom from family cares, the unemployment of the organs of generation soon exacts full payment, and age comes on before its time. Serious organic conditions are mentioned as possible consequences. The whole endocrine system of the female is linked up with her reproductive system. If the latter is prevented from going through its normal course, but is nevertheless frequently subjected to use for the purpose of sexual gratification, the result tends to be premature senescence of the whole organism, which is deprived of its proper development after being stimulated into initial action.

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[2] McCann, "The Precancerous Uterus," Proc. Roy. Soc. Med., 1919, Vol. XIII (Obstet. Sec.), pp. 3-8.

## CHAPTER IV

# SOME FURTHER PHASES OF CONTRACEPTION

THE preceding chapter presented the views of a number of eminent physicians who on medical grounds emphatically condemn birth-prevention. Before concluding this section, there are several related phases of the question worthy of attention.

*Reliability of Birth-Prevention Methods:* "There is no infallible method of contraception," says Dr. F. J. McCann in his brochure, "Contraception a Common Cause of Disease." The two methods in most common use show a percentage of failure amazing to a public likely to take for granted a very high degree of effectiveness for these procedures. None promise complete protection. Dr. James F. Cooper, lately deceased protagonist of birth-prevention, admits in his volume, "The Technique of Contraception," "The only ethical attitude a physician can take is to guarantee nothing. He can only promise to do his best."

The man and woman who are practising birth-control simply to avoid responsibility and to leave themselves free to enjoy the pleasures of life, may be able to place themselves in a philosophical state of mind with regard to the efficacy of the particular form of preventive upon which they are relying. The chances are five to one, ten to one, or perhaps even twenty to one that it will not fail them. They can afford to take a chance. If it does not fail them, all well and good. If it does, they can afford to accept the responsibility that they had endeavored to avoid.

However, it may well be said in passing that the couple who for pleasure alone seek to escape their marital obligations while availing themselves of their marital privileges, will not be likely to accept the failure of their efforts philosophically. The rise in the number of criminal abortions has not been checked by the spread of contraceptive practice. The not unwarranted conclusion is that many have been guilty of this crime, denounced by law and public opinion throughout civilized society, who would not otherwise have allowed themselves to consider it. They are willing to commit murder because of a pregnancy against which every possible precaution has been taken.

There is, however, one very important and pertinent fact that cannot be overlooked. Sincere advocacy of contraception is very frequently based on the physical condition of the woman. S. Adolphus Knopf, M.D., in a letter to the "New York Times," dated March 30, 1931, mentions several conditions, such as diseases of the heart and kidneys, pulmonary tuberculosis, etc., where "an added pregnancy would be disastrous to the physical and mental well-being of the mother." The advocate of birth-control says to such a woman, "Here is a means whereby, despite your condition, you may *safely* continue the exercise of your marital privileges," with the mental reservation, however, that *safely* must not be interpreted as excluding one in twenty chances of failure. And failure, it is said, may, in this case, mean death. But, as the Federal Council of Churches said consolingly in its pronouncement, "Married couples should keep these facts in mind and welcome children should they come"!

Most expedients to prevent conception are ineffective. Those few for which some degree of assurance is claimed are correspondingly difficult to use. Reference has already been made to this fact. Some knowledge of anatomy is necessary to appreciate its full importance. If any mechanical contrivance for female use is to be effective and not merely to delude the wearer into a false sense of security, it must first of all be designed with due regard for the configuration and proportions of the individual; secondly, it must be exactly adjusted; and thirdly, it must stay precisely in place. Dr. Kisch's statement ("The Sexual Life of Woman," p. 411) that "the skilled hand is needed for the proper adjustment" must be obvious when these facts are considered. Nor must it be forgotten by those who would rely on this type of method, as Kisch points out, that such a contrivance is readily displaced by almost any movement.

It is not within the scope of a work of this kind to present any detailed account of the various methods of preventing conception. An intelligent discussion of the question, however, requires an understanding of the fact that a wide range of such methods does exist, and that although, as previously indicated, certain medical objections can be advanced against any interference with the due course of nature, these objections are valid against different methods in varying degree. Certain other objections are to be posited against specific preventives. It would seem necessary, therefore, at least to classify into several general groups the methods of prevention in common use, and to make some comment on each group. In this connection, it may not be inappropriate to quote from the introduction to a volume entitled "Medical Views on Birth Control," edited by Sir James Marchant, K.B.E., LL.D., secretary of the National Birth Rate Commission, Great Britain. The introduction was written by Sir Thomas Horder, Bart., K.C.V.O., M.D. In it he says: "The stratagem which carries Onan's name, besides being quite impossible for many men, is such a gross physical and psychical offence that to continue to consider it at all in this connection seems only to pander to that itch which some writers possess to be thoroughly inclusive in their survey of possibilities. . . . All the known and tried ingenuities as between unaided husband and wife proving either unreliable as contraceptives or harmful to health and happiness, the search for methods takes us into the realms of chemistry and mechanics. Chemistry failing us in these same two ways, that is, by being unreliable or by endangering health or happiness, the final resort in our present state of knowledge is the use of mechanical contrivances. Certain physical as well as psychical disadvantages affecting both parties attach to these when applied to the male partner, and so, as the present survival of the fittest in contraceptives, it falls to the woman's lot to make the mechanical adjustment necessary to achieve the object in view—an onus the extent and nature of which seem to be too frequently minimized. How few women possess the skill, the patience and the finesse necessary to render this adjustment with even an approach to efficiency is a question, again, which is, I think, too little considered."

In summary, it may be said that every known authority from the great names of medicine, even to modern advocates of birth-control, condemns certain of the more common methods of birth-prevention. Dr. E. Heinrich Kisch, professor of the German medical faculty of the University of Prague, Beard (in his work on sexual neurasthenia), Mantegazza, Hirt, and others may be quoted in this connection. To many, no method devised is acceptable. Kisch, for example, declares that when for well-grounded reasons it may be considered advisable to postpone pregnancy, "this should be effected by a certain degree of continence and by the observance of extensive periods of sexual quiescence. . . ."[1] Artificial means of prevention he decries as "injurious to health."

At this point it may not be inappropriate to comment on the repeated attempts of the advocates of birth-prevention to have removed from the statute books all restrictions on the giving of information concerning means by which conception may be prevented, and the free and unimpeded dissemination of devices designed for this purpose. Elsewhere in this volume some idea is given of the shocking extent to which this illegal traffic is now carried on. Much of this traffic is in types of preventives that are condemned as harmful not only by medical men but by birth-control clinicians themselves. Yet, though this is admitted, the cry is to make legal the manufacture and sale not of certain types, for which harmlessness and efficiency are at least claimed, but of all types, even the most pernicious. A distinguished medical man in an address at the National Conference of Social Work held in Minneapolis in June, 1931, stated that any preventive, to be at all acceptable, must have three qualifications. It must be harmless, effective, and easily usable. So far, no preventive yet devised has these qualifications.

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[1] E. Heinrich Kisch, M.D., "The Sexual Life of Woman in its Psychological, Pathological and Hygienic Aspects," translated from the German by M. Eden Paul, M.D., New York, Rebman Company, 1910, p. 279.

With so little in the way of genuine and authoritative medical opinion in favor of the employment of artificial means of conception-prevention, and so many and such weighty expressions of opinion to the effect that the individual and the race must inevitably suffer grievous consequences from this all too common practice, how can we account for its rapid spread?

The answer is that birth-control propaganda has concerned itself little, if at all, with any truly scientific and objective examination of the question of public health. Individual cases, where dire consequences of another pregnancy are pictured, are made the basis of utterly unscientific and far-fetched pleas for the lifting of all restrictions, the throwing of the gates open to all kinds of abuses. Because of the unfortunate plight of some women (for whom the laws as they exist to-day permit their physicians to prescribe), the way is to be cleared for the bombarding of normal and robust women, well constituted to be the mothers of a sturdy rising generation, with artfully worded inducements to avoid their responsibilities, and with the means, commercially profitable to their advocates, by which this may be accomplished. And to the eyes of our boys and girls, at an age when their purity should be guarded as their lives, the newspapers and magazines of the country are to be permitted to present sex-charged stories and pictures of preventive devices, which the corner drug-stores will make concrete in nauseating displays.

There are various contributing factors to this curious phenomenon: sincere though misguided humanitarianism; the "crusader complex", by which certain types of men and women are constantly seeking a "cause", *any* cause, and when they find one, devote themselves to it with a fervor that is almost if not quite fanatical; other factors. But basic and fundamental is the false emphasis and twisted connotation placed by modern philosophy and literature upon the word *sex*. Beginning with the theories and the vague hypotheses of Sigmund Freud, and continuing with the publication of the works of many of his disciples and followers, the public has been deluged with a pseudo-scientific literature based upon and presenting a thoroughly unhealthy, morbid, and intrinsically unsound interpretation of the facts of life. In all this literature, emphasis is laid, not upon child-bearing and the preservation of the race, but upon sexual satisfaction, which is set up as an end in itself, not a means to an end. Books on this subject, written for popular consumption, became best sellers. The public mind became saturated with the notion that sex gratification was not only entirely permissible, but was necessary; that the psychological completeness, the very health of the individual required it. Continence, self-control, were dubbed medieval, undesirable as well as impossible. Sexual inhibitions were to be discarded.

More recently, the hypothetical tenets of this school of thought are taken with little seriousness by scientific and social observers. Nevertheless they have been so inculcated in the public mind that they still have widespread currency, and provide a fertile field for the seed of birth-control propaganda, which springs not from the science of medicine but from the fallacious theory that sex is meant fundamentally for pleasure and that therefore sex-gratification entirely apart from procreation is lawful.

What are the impressions upon the minds of the children of the present day regarding their future behavior in this respect? Upon the only child? Upon the child in the family of two or three?

In the so-called old-fashioned large families, it fell to the lot of the older children to assist in the many duties attendant to the physical well-being of the younger. "Minding the baby" was a privilege for the young girl approaching adolescence. An actual flesh-and-blood infant to care for gave her a sense of superiority over her playmates, who had naught but dolls upon which to expend their incipient maternal urgings. Medical works dealing with adolescence are replete with material concerning the many physiological and psychological changes which the person undergoes on approaching the age of puberty. When surrounded on every side by actual manifestations of healthy and normal child-bearing on the part of their parents and other married relations, the indefinite and vague desires of adolescence are very much more easily understood by the child of this age. Instead of regarding childbirth as a staggering obligation, a tremendous undertaking, it would be looked upon as a normal incident in every smooth-running family. She would see that the mother of a baby was usually able to be up and around the house within two weeks after the birth. Rather than an unusual and direful happening, she would consider it simply an ordinary, and, in the literal meaning of the word, a blessed event.

Not only would the influence of young children growing up around her give her a better perspective with which to make the delicate adjustments required in this period of her life, but it would be of untold benefit to her when she reaches an older age and is confronted with the question of marriage. If her childhood had been of the kind described, she would have no dread of the physical challenge which faced her. The intimate knowledge gained from the observations of her youthful days would be a source of inspiration to her, and she would be inclined to welcome as a happy responsibility the opportunity to fill out her destiny as woman, wife, and mother.

Still another observation—and perhaps the most important of all—seems pertinent to the whole discussion. Mention of it has already been made. Love is the basis, the only sound and lasting basis, of married life, "pure conjugal love, loyal and true to the end," in the words of the marriage ritual of the Catholic Church. The most complete expression of this love is in the conjugal embrace, the method designed by the Creator for the mingling of two in one flesh. If there is any one quality which this climax of all nature should possess, it is spontaneity. Perhaps at first thought the taking of some simple precaution may not seem prejudicial to this spontaneity. The most cursory reading of any set of technical instructions issued under birth-control auspices is sufficient to dispose of this idea. The plain fact is that nature's processes cannot be obstructed by simple means. Elaborate preparations must be made (and we have seen that even these fail). One brochure on the subject contains five pages on the technique of using effectively one of the simplest of preventives! When it comes to the more complicated, the mere reading is all but nauseating. *To entangle the marital privilege in a clutter of preventive methods is to breed disgust for the act and for the partner thereto,* *and to degrade the institution of matrimony itself.*

As Paul Bureau says in his volume, "Towards Moral Bankruptcy": "If love is in its essence the gift of oneself in generous and trustful abandonment, how can it be secured with these meticulous precautions, these learned reservations at the root of a distorted egotism, this evil playing with filthy toys? Edward Carpenter calls it with reason 'the hopelessly material way so destructive of true feeling,' and love cannot but wither at the fire of sterile love-making."

George Bernard Shaw uses even stronger language. "When people adopt methods of contraception," he says, "they are engaging, not in natural intercourse, but in reciprocal vice." ("Transactions of the Medical-Legal Society of London," July 7, 1921.)

*The So-called "Safe Period":* Brief mention of the so-called "safe period" would seem appropriate at this point. Morally its utilization with the hope of avoiding pregnancy is admissible. As Pope Pius XI says in the Encyclical Letter of December 30, 1930: "Nor are those considered as acting against nature who in the married state use their right in the proper manner although on account of natural reasons either of time or of certain defects new life cannot be brought forth." In other words, it is here presumed that the act is whole and entire; and that if conception does not follow it is because Nature has herself not coöperated, not because man has interfered with her processes.

It must be understood, however, that there is no such thing as a period which is really "safe." Conception may follow the marital relationship exercised at any time. It is a question of degree of probability.

The use of the "safe period" however involves the omission of the marital relationship when it is likely to be most desired by the woman, and its exercise when it is least desired or perhaps even repugnant. This fact, so little understood, sometimes results in dissatisfaction and recrimination, the husband feeling that the wife is ceasing to love him, the wife on the other hand feeling that the husband is utilizing the marital privilege not as the highest expression of his affection for her, but solely for the satisfaction of his desire. Not that this reaction is of general or even perhaps of frequent occurrence; its possibility, however, should be recognized, and its unfortunate consequences guarded against by those who make use of this lawful expedient for reducing the likelihood of conception.

*Continence:* The logical next step in the discussion is continence. With family limitation by artificial means condemned on many counts, and with the so-called "safe period" a not completely satisfactory expedient, nothing remains but either the acceptance of as large a family as may follow the regular exercise of the marital privilege or the practice of conjugal continence. Let it be said in the first place that the idea, so surprisingly current, that the Catholic Church requires the raising of as large families as possible, is an utterly mistaken one. The Catholic Church believes in birth-control, but by self-control. And so, it would seem, does Nature. Intercourse during much of the period of pregnancy, and during the early months of lactation following parturition, is admittedly perilous. For considerable periods, therefore, Nature herself requires that both spouses maintain control over their sex-desire. There is an old scholastic dictum that it is reasonable to argue from the existence of a thing to its possibility. Nature may and indeed does ask some difficult things from us, but she does not ask the impossible.

The advocate of birth-prevention by artificial means describes marital continence as an ascetic ideal, possible to a few, but no practical solution of the problem vital to so many. Aside from the question of the possibility of maintaining such control over one's natural desires, but directly bound up with the effort involved in so doing, they claim to see various resultant neuroses and psychoses. But Dr. Ross McC. Chapman,[1] speaking of "the too frequently met with mistaken contention that sexual relations must be maintained in the interests of good health," says, "Normal repressions and self-control are indications of and are a part of good health." And Dr. Frederick J. McCann, the authoritative British gynecologist quoted earlier in this section, in his pamphlet entitled "Contraception a Common Cause of Disease," states that "for the highly sexual individual to control the sexual urge may be on occasions extremely difficult; still this is not harmful but rather beneficial, for self-control is thereby strengthened. *No one has ever been seriously affected by chastity; it is unchastity which produces injurious effects.*"

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[1] Chapman, "Birth Control and Mental Hygiene," in "Birth Control Facts and Responsibilities: A Symposium Dealing with This Important Subject from a Number of Angles," edited by Adolf Meyer, Baltimore, The Williams and Wilkins Company, 1925, p. 111.

Paul Bureau, in the work already mentioned, "Towards Moral Bankruptcy" (p. 418), in biting language lashes and excoriates neo-Malthusian practice. "From no point of view," he says, "can anticonceptionist 'precautions' be justified, and under no circumstances can they be allowed." He shares, however, with Malthus the latter's unfounded fear that population is outstripping subsistence. Moderately large families he considers a great blessing: "It is the fertility of the human race which has always been in the past, and most certainly will always be in the future, the most active and powerful collaborator in all progress, whether material or moral." But some limitation, he feels, is frequently necessary, and continence is the only way this may be accomplished. And continence is practicable: "The sacrifice," he says, "is not beyond man's power, as people wish to make out, at least if husband and wife have been careful to adopt such a healthful life as will help the abstinence that is required of them."

It is argued that overburdened womanhood and lustful manhood make contraception a necessity, but M. Bureau says eloquently (p. 421): "Something else is needed to fight against the abuses and excesses of man's desire than the tricks of an apothecary or the recipes of a herbalist. So urgent a task as the deliverance of the woman can be accomplished only by delivering the man as well from the slavery of sensuality, and not in giving both of them over to the brutality of an instinct which, when sense of responsibility is lacking, would be still more insistent in its demands. This conjugal continence, which terrifies so many of our cowardly moralists, gives on the contrary a new sense and an enlarged significance to the great duty of chastity in the celibate, which all unite in proclaiming necessary. This duty would no longer seem to be, as it were, hanging in the air, necessary only for a time; the time of chastity preceding marriage would appear as part of a coherent sexual morality, as the preparation leading to the more difficult continence which married life will demand. No hard and fast line will divide the two periods; the second is the logical sequence of the first, and has urgent need of habits, already formed, of discipline of the senses, and control of the spirit over the animal nature."

M. Bureau refuses to recognize that utterly degrading modern philosophy of life which is a complete capitulation of the spirit to the flesh. "It is impossible," says the literature of the present day. "That is not so," says M. Bureau, "to the man and woman who have all their lives accustomed themselves to moral self-discipline. It is impossible only to them who have never denied the call of the flesh."

## CHAPTER V

# ABORTION AND STERILIZATION

NO discussion of contraception would be complete without at least passing reference to the two closely related subjects of abortion and sterilization.

*Abortion:* Abortion, curiously enough occasionally confused with contraception, differs from it in that it involves the cutting short of a life already begun, while contraception aims to prevent life by obstructing the union of the male and the female cells. Dr. Donald Macomber speaks of abortion as "the proper scientific term for the interruption of any pregnancy before the twenty-eighth week when the child is supposed to be viable." The theologian Vermeersch in his "Moral Theology" defines it as "*ejectio fetus immaturi*"—the expulsion of the immature fetus—that is, expulsion before it has reached a sufficiently advanced stage of development to be able to live outside the mother.

"Abortion," says Dr. Macomber, "is of very frequent occurrence. Some authorities (J. Whitridge Williams, "Obstetrics") makes its frequency as great as one out of four or five pregnancies." There is question here, of course, not alone of criminal abortion, that is, the *deliberate* expulsion of the immature fetus, but also of spontaneous abortion and miscarriage. Criminal abortion is thought to be on the increase. In Europe not less than one half of all conceptions are estimated to end in criminal abortion —a shocking thing if even approximately true! Every outstanding gynecologist who deals with the subject refers to it in terms of unmeasured alarm. One describes the growth of criminal abortion as "downright catastrophic in character."

Not less than two per cent of the women undergoing criminal abortion die of its consequences, according to European testimony; in some countries the estimate rises to five per cent. Professor Liepmann indicates that seven times as many die as a result of criminal abortion as die from any of the causes connected directly with childbirth. Lesser physical consequences of abortion include first and foremost sterility—although this does not inevitably follow, successful pregnancies having occurred in the cases of women who have undergone one or even more abortions. Liability to cancerous lesion is pointed out by some authorities as a consequence of serious mutilations which leave areas unprotected against infections or irritations. Psychic and moral shock also are almost invariable concomitants of deliberate abortion, and sometimes result in nervous disorders of great seriousness.

Public opinion on the subject of abortion is a faithful reflection of the general moral tone. The low level of moral standards now prevailing in much of Europe, the United States, and various other parts of the world, is doubtless responsible for the attitude of languid tolerance towards abortion. An apology for abortion has recently appeared in English. Much literature of this sort is current in Europe. Women now rarely have any hesitation in admitting to physicians that they have undergone this operation. While the medical profession in its corporate capacity frowns upon it, and collaborates in the intermittent efforts of public authority to put a stop to the practice, there is as yet insufficient articulate feeling within medical circles to stamp out that practice.

The teaching of the Catholic Church, as enunciated by theologians and authoritatively stated by the Congregation of the Holy Office under dates of May 28, 1884, August 19, 1888, July 24, 1895, May 4, 1898, and May 5, 1902, is concisely stated as follows: "*Numquam licet directe procurare abortum*"—"It is never permitted to bring about an abortion directly." To translate from Vermeersch: "To remove the fetus which cannot live outside of the mother is to inflict a mortal wound upon it. He who, however, is the proximate cause of death to another—even when the other is a child as yet unborn—contracts the malice of homicide." In other words, he who brings about an abortion is actually committing murder. In the penitential system of the Church, those who in any way coöperate in this act incur an excommunication, absolution from which is reserved to the bishop.

The word "directly" in the moral principle stated above is of importance. "*Numquam licet* directe *procurare abortum*"—"It is never permitted to bring about an abortion *directly*." An abortion is said to be "directly" brought about when it is the fetus itself that in some way threatens the life of the mother, and when it is *by means of* the removal of the immature fetus that an attempt is made to save her life. In other words, the child is killed to save the mother. The saving of the mother is a *direct result* of the killing of the child. This is absolutely and always unlawful. It might be noted, however, that doctors are seldom confronted with a situation in which such a result can be positively predicted.

Theologians, however, are agreed that for sufficient reason, *indirect* abortion is morally permissible. In this case, it is not the fetus itself that threatens the life of the mother, but some other condition, the treatment of which will, however, result in the expulsion of the immature fetus. In this case, it is evident that the life of the mother is not saved *by means of* the expulsion of the fetus; rather, the saving of the life of the mother and the expulsion of the fetus are both concomitant results of the treatment of the pathological condition that was likely to result in the mother's death.

The present Pontiff reiterates and emphasizes this teaching. In his recent instruction on marriage he says:

"But another very grave crime is to be noted, Venerable Brethren, which regards the taking of the life of the offspring hidden in the mother's womb. . . . However much we may pity the mother whose health and even life is gravely imperiled in the performance of the duty allotted to her by nature, nevertheless what could ever be a sufficient reason for excusing in any way the direct murder of the innocent? This is precisely what we are dealing with here. Whether inflicted upon the mother or upon the child it is against the precept of God and the law of nature: 'Thou shalt not kill.' The life of each is equally sacred, and no one, not even the public authority, has the right to destroy it."

*Sterilization:* The purpose of sterilization is the prevention of procreation or conception. It is resorted to not merely in the case of alleged mental defectives, but also in the cases of individuals who desire to avoid parenthood. This is particularly the case in the State of California, where a large number of men have had the operation performed, giving as their reason the desire to avoid procreation.

The part played by sterilization as a means of preventing conception is considerably more extensive than is generally realized. It has had a history of several thousand years. Of the fairly considerable literature upon the subject, there is but one important work in English, that of Gosney and Popenoe. The fundamental study on the entire subject, in any language, is the solid volume of the Reverend Joseph Mayer, an Austrian priest, published some time ago under the title "Gesetzliche Unfruchtbarmachung Geisteskranker."

The principal methods of sterilization of the male in more or less general use in Europe and the United States, are known as "vasectomy" and "vasotomy." Both effect the closing of the vas deferens in order that spermatozoa may not be provided with free channel for ejaculation, but instead will be turned into the internal secretory system of the male. This is the underlying theory of the process, for which much has been claimed, but little proved. Several minor surgical methods have been employed in the case of the male, as well as irradiation by Röntgen rays and radium, this latter practice being condemned by contraceptionists themselves. In the case of the female, the removal of the ovaries has been practised from ancient times, the operation commonly having serious ill effects nervously, mentally, and metabolically. For this reason it has been largely discontinued. The more common procedures for the sterilization of the women are the tying of the Fallopian tubes at the uterus, a method requiring a laparotomy; fallectomy, which is the removal of a portion of the Fallopian tubes; and salpingectomy, which is the surgical removal of the oviduct. All of these operations are more serious than vasectomy or vasotomy in the male.

The physical consequences of sterilization are a matter of considerable dispute. Steinach alleges a prolongation of virility and sexual capacity through the diversion of procreative power by vasectomy and vasotomy; but others are more skeptical. In the case of women, many of the methods followed in Italy, France, and Germany have produced a premature change of life, often resulting in mental derangement of incurable character.

The older forms of sterilization, and particularly castration, had pronounced physical and psychic effects. The eunuch is typically a person of arrested hirsutic and other morphological growth. The effect of castration in preserving the boylike timbre of the human voice is well known.

The employment of sterilization for the purpose of preventing the propagation of mentally deficient persons, criminals, and others likely to become social liabilities has been advocated for some decades. In recent years the cost of caring for the greatly increased number of persons confined in institutions for mental deficients of various grades has resulted in a more widespread advocacy of sterilization as an alternative and less costly procedure. Authorities in this field, however, are not at all of one mind as to the advisability of adopting this plan. The Commonwealth of Massachusetts tried the experiment some years ago, but abruptly abandoned it when after sterilizing several hundred feeble-minded women it found them coming back to public care infected with syphilis and gonorrhea. Apparently immunity from parenthood had merely encouraged unrestrained promiscuity. In Germany the most militant advocate of sweeping sterilization laws, Dr. Boeters, recognized this danger, and in a draft of a proposed sterilization law for Saxony naïvely endeavored to avoid it by enjoining silence upon the family of the feeble-minded person upon whom the operation had been performed!

It is clear to any one who has followed this movement that in Europe, as in this country, the emphasis upon sterilization as a means of preventing the propagation of feeble-mindedness rests upon a misapprehension. "As regards the whole question of inheritance of feeble-mindedness," says Stanley Powell Davies in "Social Control of the Mentally Deficient," "there is only one thing of which we can be certain at present and that is our uncertainty." He makes it clear that the weight of the best professional testimony is not on the side of the contention that inferior mental capaciy is necessarily subject to inheritance or that the feeble-minded are exceptionally fertile.

In emphatic agreement with this point of view is the judgment of the Central Association for Mental Welfare of England, expressed in a letter (printed in full in the appendix of this book) to the London "Times" under date of January 20, 1926. Stating as a preamble that the Central Association for Mental Welfare is "the chief non-official body in the country dealing with defectives; that during the past ten years a total of 34,000 cases of mental abnormality have been referred to its central office and local associations; and that its central council is composed of representatives nominated by practically all the official bodies and societies in the country engaged in work amongst mental defectives, together with medical specialists of recognized standing in this subject," it declares that having considered "very fully and carefully" the whole question of sterilization, and being "fully cognizant of the cost of institutional treatment and the urgent need of economy," and being "alive to the necessity of preventing the propagation of offspring by defectives," it has "unanimously arrived at the conclusion that while sterilization might be appropriate and applicable to certain particular cases, it would have very little effect in the prevention of mental deficiency, it would certainly lead to serious social evils, and it would be inimical to defectives and to the community were it to be adopted as a general policy."

The Welfare Legislation Information Bureau of the State Charities Aid Association of New York, commenting on "An Act to Provide for Sexual Sterilization of Insane, Idiotic, Imbecilic, Epileptic and Feeble-minded Inmates of Institutions Supported Wholly or in Part by Public Funds," introduced into the New York State Legislature in 1928, said: "The idea embodied in this bill is an old one and has some fallacies, as anyone can readily determine who has sufficiently analyzed the subject. The germ idea of the bill, of course, is to prevent the spreading of insanity and feeble-mindedness, as well as epilepsy—by preventing such people from propagating their kind. Up to January 1, 1926, twenty-three states have enacted laws similar to these. These laws have been found to be impractical for various reasons. The present laws are functioning in four states only—California, Kansas, Nebraska and Oregon. By far the greatest percentage (approximately 64 per cent of all sterilizations performed in the United States) are done in California. . . . It is obvious that both the feeble-minded and the insane can be kept from propagation by being segregated in institutions. The types of feeble-minded and psychopathic individuals, on account of trouble in the community, are those who are unstable. Instability, of course, cannot be taken as a criterion for sterilization. It would appear that segregation, rather than sterilization, is a much more practical and effective means of protecting the community."[1]

What has the Catholic Church to say concerning the morality of sterilization? The reader who might wish a complete discussion of the principles involved is referred to the "Conference Bulletin of the Archdiocese of New York," Vol. V, No. 4, p. 125. An excerpt from this bulletin is contained in the appendix of this volume, in which have also been included a statement from the pen of the Rev. Edward J. Mahoney, D.D., professor of moral theology at St. Edmund's College, Ware, and an excerpt from an article of the Rev. H. Davis, S.J., in the "Catholic Medical Guardian" for October, 1926.

In brief, this much may be said. To quote from Dr. Mahoney, "Sterilization is clearly lawful when it occurs as a necessary accompaniment of a surgical operation judged necessary for bodily health." As the "Conference Bulletin" says, "This is not a mutilation in the proper sense of the word, that is, an unjust deprivation. It is rather a lawful action with two equally immediate effects, maiming and preservation of life, the latter of which is intended and lawfully procured."

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[1] For a further discussion of the legal aspects of sterilization, see the Chapter on "The Law and Its Enforcement."

"If sterilization is proposed, however, not for its therapeutic value but as a eugenical method of purging degenerates from future society, it must," says Dr. Mahoney, "be condemned as immoral, whether performed in a willing subject or not, whether imposed by private authority or by the authority of the State."

The recent Encyclical on Marriage makes formal and official this opinion. "Public magistrates," says the encyclical, "have no direct power over the bodies of their subjects; therefore, where no crime has taken place and there is no cause present for grave punishment, they can never directly harm, or tamper with the integrity of the body, either for reasons of eugenics or for any other reasons."

The Holy Father's pronouncement definitely disposes of an opinion formerly defended by a few theologians that sterilization of the unfit by public authority might be tolerated under certain extreme circumstances. It has never been seriously contended that such circumstances exist *de facto*. "Practically all theologians who have written on the subject are agreed," says the "Conference Bulletin," "that there is no moral justification for the laws of sterilizing which are on our books in many states. On this point at least they are unanimous: No such imminent peril to the common welfare actually exists as might seem to justify the State in using this measure as the only escape from threatened ruin."

From the Catholic point of view, any discussion of this point now becomes irrelevant, the Holy Father having rendered the decision quoted above. Those who maintain the contrary, "against every right and good, wish the civil authority to arrogate to itself a power over a faculty which it never had and can never legitimately possess."

# CHAPTER VI

# THE DOCTOR AND THE LAW

READERS of an outstanding New York City newspaper on April 21, 1931, may have observed this head-line: BIRTH CONTROL AID BACKED BY DOCTORS—MEDICAL ACADEMY ENDORSES CLINICS OPERATING SOLELY IN THE INTEREST OF HEALTH. The news article following informed the reader that the New York Academy of Medicine had voted that existing birth-control clinics "operating within the law solely in the interest of the health of the individual" should be continued, and that similar clinics should be organized in institutions where there is need for such service. Another metropolitan publication headed a column with the caption ACADEMY ASKS BIRTH CONTROL AID BY DOCTORS. Under this heading we read, "After many months of consideration, the New York Academy of Medicine has passed resolutions urging change in federal and state laws to exempt physicians from existing inhibitions in statutes concerning birth control information." Still a third newspaper made extended editorial comment under the caption BIRTH CONTROL. "Epoch-making," says the writer of the editorial, "is no exaggerated term for the formal declaration of the New York

Academy of Medicine that the public is entitled to expert counsel and information by the medical profession on the important and intimate matter of contraceptive advice. . . . Here, at last," continues the writer, "is the medical profession soberly, properly, progressively asserting itself in a field hitherto left largely to lay effort."

This publicity is an interesting example of the tactics utilized in popularizing birth-control. In the appendix of this volume, so that it may be available for the personal perusal of every reader, the statement to which the references above are made is printed in full (pp. 241-44).

Two comments are appropriate in regard to the statement and its attendant publicity, representative samples of which have been given. The first is that the report, when read in its entirety—that is, not only the recommendations with which it concludes, but the explanatory matter preceding the recommendations—gives ground for an interpretation of the report quite different from that indicated by the head-lined announcements. The second comment is that the report, though described in the editorial quoted as "a formal declaration of the New York Academy of Medicine," is really a report of a small committee—the Public Health Relations Committee—to the Academy, and as such was passed upon by the Council of the Academy and published in its bulletin. Up to the time that this volume went to press, the report had not been submitted to or voted upon by the membership of the Academy. What, therefore, was hailed as a progressive assertion on the part of the "medical profession," was only the report of a small group of doctors to the parent body. It was not the recommendation of the parent body to the profession. Moreover, many eminent members of the Academy would emphatically disagree with any pronouncement even presumptively favoring birth-control.

The phrase "even presumptively favoring birth-control" may well be applied to the report, as a discriminating perusal of it will at once indicate. The statement opens by quoting Section 1145 of the New York State Penal Law, in accordance with which physicians may lawfully give contraceptive prescription "for the cure or prevention of disease." The report then calls attention to the fact that "without violating the letter of this law, its violation in spirit may easily be effected by one who, being a licensed physician, endows the word disease with its broadest meaning." The report adds that "such interpretation may well be fraught with consequences which the law does not contemplate and which we believe to be deprecated by enlightened medical and lay opinion." For these reasons, "those institutions where contraceptive advice is given must be so supervised that the spirit of the law as well as the letter will be given due consideration."

The report then goes on to say that "the modern tendency in clinic organization is away from detached dispensaries. The so-called unattached clinics are gradually being abandoned and the work taken over under the direction of the hospital. It is for this reason that the work of the medical group at the Birth Control Clinical Research Bureau can only be regarded as a temporary addition to the clinical resources of the community until such time as this work be taken over entirely by recognized hospitals and clinics and by the profession in private practice." Until this is done, however, "all the contraceptive clinics should be under adequate medical supervision and should be regularly inspected by experienced gynecologists and obstetricians."

One might wonder if the leaders of the birth-control movement in the United States, who professed such delight in the public press at this statement, realized fully its implications. In effect, it simply says that the giving of contraceptive advice under certain circumstances is permitted by law. Violation of the spirit of this law, fraught with grave consequences, may easily occur. Most of the contraceptive advice that is being given to-day is in clinics unattached to hospitals. Modern tendency in clinic organization is away from the detached dispensary type. Therefore, recommends the report, let these clinics be continued only until such time as the work can be taken over entirely under recognized professional auspices. And in the meantime, let the clinics be carefully supervised and inspected. Special emphasis is laid on this final point. The report is certainly not couched in such terms as to indicate high approval by the committee of the present system of making birth-control advice available to the public.

Of similar import—and similarly misleading—was the publicity attending the presentation by Senator Gillett of Massachusetts of a bill technically described as S. 4582, "A Bill to Amend Section 305(a) of the Tariff Act of 1922 as Amended, and Sections 211, 245, and 321 of the Criminal Code, as Amended." The purpose of this bill, the text of which appears in the appendix, was to exempt from the provisions of the obscenity statutes, information, articles, instruments, etc., distributed under government or medical auspices. This bill, sponsored by the American Birth Control League, a lay propagandist organization, was christened by it the "Doctors' Bill," and every effort was made to popularize it throughout the United States under this title. Obviously the purpose was to convey to the Senate and to the people of the country in general the impression that the medical profession stood sponsor for the proposal. This attempt met with well-merited repudiation by the American Medical Association. In a letter to Chairman Norris of the Judiciary Committee and read into the committee hearings, Dr. W. C. Woodward, director of the Bureau of Legal Medicine of the American Medical Association, says:

> "I am informed that the Senate Committee on the Judiciary will give a hearing, February 13, on S. 4582, a bill to amend section 305(a) of the Tariff Act of 1922, as amended, and sections 211, 245, and 312 of the Criminal Code, as amended. The purpose of this bill seems to be (1) to promote the dissemination of the information con-

cerning methods for the prevention of conception and (2) to facilitate the distribution of facilities for accomplishing that end.

"Propaganda in support of this bill refers to it as 'Our Doctors' Bill.' To prevent any misunderstanding, you are informed that the American Medical Association has taken no part in the preparation of this bill or in procuring its introduction. The association has expressed no opinion with respect to the principles and purposes of the bill."

This statement undoubtedly weighed heavily in the failure of the Judiciary Committee to report the bill. Even if the Association had not gone on record to this effect, Congress would have received protests from thousands of doctors who emphatically condemn on medical grounds the practice of contraception. The profession is by no means the large unit in favor of birth-control that birth-prevention propagandists would have the public believe. That this is the case was frankly admitted in the pronouncement of the "guarded approval" given by the Federal Council of Churches, which states that the medical profession is divided on the merits of the question, adding that "nobody knows as yet the prevailing opinion." As has been indicated in preceding chapters, eminent medical authority condemns the practice of contraception. In 1929, when the Remer Bill, similar in its general purpose to the Gillett Bill, was introduced in the Legislature at Albany, over four thousand physicians from the State of New York indicated their opposition to it.

In this same connection, it might not be inappropriate to quote also the letter to the press issued by Dr. William Gerry Morgan, president of the American Medical Association, on the occasion of the issuance by the Federal Council of Churches of its conclusions regarding birth-prevention practice:

> "I read in this morning's press with surprise and regret the action taken by the Council of Churches on birth control. I cannot believe any considerable proportion of the 23,000,000 individuals making up the membership of the 27 American Protestant churches will indorse the findings of that council.
>
> "The question of birth control is of vital importance to the future of our country, since it affects directly the survival of the white race and its dominance in world progress.
>
> "If this social practice were to be universally indorsed and adopted, it would open the door to unbridled dominance of the basest passions, and give license to the most widespread physical abuses.
>
> "To establish the habit of thwarting nature is, in the long run, a dangerous practice, and invariably leads to moral degradation and disaster. It would strike a death blow to self-control and to the dominance of the home. The arguments in favor of birth control are subtle and seductively given to self-indulgence and selfishness.
>
> "I trust that the voice of the leading and thinking men and women of the country will be promptly raised in protest."

One further observation should be made at this point. Let us allow Dr. J. Whitridge Williams of Johns Hopkins University, who appeared in favor of the Gillett Bill, to make it for us. The record of the hearing on February 13, before a Senate subcommittee at Washington, quotes Dr. Williams as saying that the average doctor objects to the present law for the same reason that he objects to the prohibition and narcotic laws, because it attempts to tell the physician how to prescribe for his patients. This statement is of far-reaching significance. It means—and it would seem that this is admitted even by the contraceptionist group—that advocacy of legislation such as contained in the Gillett and Remer bills in no way implies approval of contraception itself. It may arise, and Dr. Williams says this is the case of the average doctor, solely from the conviction that the intimate physician-patient relationship should not be intruded upon by any lay tribunal. This is a circumstance in the light of which much contraceptionist propaganda should be examined.

Worthy of mention also is an editorial in the April issue of the "Medical Times," a physicians' magazine. In it Dr. Arthur C. Jacobson, a Brooklyn physician and editor of the publication, says, "The medical man of to-day is forced into the position of accepting birth control as it is practised, sometimes regardless of his own attitude."

Such limited professional approval of this type of legislation as has appeared has come for the most part solely from individual doctors. Responsible medical societies—regional, national, or of special branches of medicine in this and other countries—have not endorsed movements to enact such legislation, and their refusal to do so has generally been in decisive terms. The repudiation of the so-called "Doctors' Bill" by the American Medical Association is a case in point.

Another example of this attitude is represented by the action of the Medical Society of Kings County, New York, an organization with 2,300 member physicians, which went on record, while the Remer Bill was under legislative consideration, with the following resolutions:

> "Resolved, That the Medical Society of Kings, in meeting assembled February 19, 1929, opposes the introduction or enactment of any bill that will give to physicians or anybody else power and authority to give contraceptive information to any persons, married or otherwise, and in taking this action the Medical Society of the County of Kings is consistent with the policy of years, and mindful of its duty to protect the minds and bodies of the people from contamination by vicious legislation or injury by interference with the natural processes by which people are made happy and nations are made strong, and be it further
>
> "Resolved, That the physicians of this county society, and of this county and State, are urged to definitely oppose any such legislation, not only by voting 'No' to such questionnaires but by influencing their county societies to take action similar to this, and the legislators from this county are hereby urged to work and fight for the defeat of such bill, if introduced, and be it further
>
> "Resolved, That a copy of this resolution be sent to the New York State Journal of Medicine and to the lay press with the request for publication."

# *Part III*

# THE POPULATION ASPECT

# *Part III*

## CHAPTER VII

## THE RECURRENT FABLE OF OVERPOPULATION

TWO citizens of Ancient Greece stood talking in the market-place of Athens. A passer-by, if he had stopped to listen, might have noticed how excited they were. A plan had recently been proposed by the leaders of the city, recommending that the free-born members of the community be limited to 5,040. What was the possibility of this Utopia? How would it affect their personal lives?

The scene changes. It is London in the early nineteenth century. On a terrace overlooking the River Thames, two Englishmen are arguing back and forth. As we come into hearing distance, our ears are met with the oft-repeated name—Malthus. A look of worry is on the face of one of them. Apparently he is deeply concerned over something. "Suppose," we hear him utter, "things should come to such a pass that there were more persons in the world than the world could find food for? What then?"

A little more than a century later. Looking down over the crowded city streets at the thousands of people milling into the subway kiosks, is the editor of a New York City newspaper. He has just completed an editorial on the subject of birth-control. Although the very nature of his job sometimes makes him prone to jump too quickly at conclusions, he has a genuine feeling for his fellow-humans. "When," he muses to himself, "is the pace at which these humans breed ever going to let up?"

There has always been anxiety concerning over-population. Discussion of population trends—and fear of their consequences—must not be thought of as belonging solely to our own day. Nor did it begin with Malthus and his group, or with the social, political, and even religious movements to restrain population that made their appearance in the nineteenth and twentieth centuries.

Abundant evidence exists of the deep interest which the leaders of successive peoples of the ancient world had in the maintenance of a steady growth in population. The legal and social institutions of all the peoples of antiquity, in Asia as well as in Europe, appear to have contemplated nothing else than normal and unimpeded procreation. This is seen in the attitude of the Semitic races and their neighbors toward marriage and paternity. For the married, childlessness was regarded as an irretrievable misfortune. A breach of marital fidelity was severely condemned because, among other reasons, it implied a taint upon the identity of parenthood and offspring, thus breaking the traceable line of descent, with all the serious consequences that such a break may have. Devotion to the ancestral line was no mere by-product of ancestor worship—"Marry young, in order that thy son may take thy place, and the chain of human creatures may not be interrupted," was the command of Zoroaster in the Zend-Avesta. His followers to-day, the Parsees, cling to this principle and measure happiness in marriage by its fertility. The peoples of antiquity felt the necessity of large families. They took for granted, and approved, the most vigorous governmental policies formulated to achieve this result.

And yet, even in the ancient Orient there were movements of a deliberate sort intended to bring about the restriction of births. These usually took the form of metaphysical pessimism and antisocial mysticism. Notable in this connection is the condemnation of life and all that gives rise thereto in the essential philosophy of Buddhism, and in that of the Essenes.

It is pointed out by Stangeland ("Pre-Malthusian Doctrines of Population") that the Greeks clearly viewed marriage as a legislative and political institution intended to furnish the state with inhabitants and citizens without whom it could not exist. Celibacy meant political, and even legal, incapacity. Characteristic of the Greek religion was an enormous admiration for the procreative forces of nature; the dwellers on Olympus were prolific, and their children were numbered by the score. One of the duties of the Athenian magistracy was to see that no family should be extinguished.

Yet, as time went on, another point of view came to be expressed, and another attitude represented in legislation. Plato and Aristotle were definitely restrictive in their attitude, primarily on account of social considerations. Solicitous for law and order, and strongly opposed to political unrest, these great thinkers saw in overpopulation a source of danger. It has been pointed out by René Gonnard and others that a certain tendency existed in the Greek mind to apply even to population the principles of symmetry and proportion, principles which made hostile empires, like that of Persia, seem to them anomalies, not true states in the sense in which the Greeks understood the state.

It was the sharp disorder and tribulation of the commercial and industrial population of Athens, with its constant threat to the political order and tranquillity of the city, which led Plato to contend that population should be held in check. His communistic régime, as expounded in "The Republic," contemplated even the communism of paternity, the regulation of marriage, and other provisions to insure a perfect state, neither increasing nor shrinking in size. Those found to have indulged in procreation outside the provisions of law were to be declared sacrilegious. Plato's attitude was substantially representative of the propertied class, which looked with misgivings upon the economic consequences of a further increase of political power in the hands of those possessing little or nothing. This approach of the Greek thinkers to the question of population resembles that of the representatives of the British conservative upper class from the end of the eighteenth to the end of the nineteenth century. Both of these concepts reflect, in the last analysis, a similar starting-point in class interest.

But the point to which Plato carried his theory of restriction is difficult for modern students to realize. He went so far as to fix with precision the number of free citizens at 5,040, which, as Gonnard explains in his volume, "Histoire des Doctrines de la Population," grew out of the natural Greek tendency to employ mathematical concepts in dealing with the social and natural sciences. The ideal number of individuals would represent, in the ideal state that he imagined, some 25,000 free persons and a substantial number of slaves. If a tendency towards excessive population were to develop, procreation would be limited or forbidden by law; if, on the other hand, the population fell below the figure stipulated, celibacy would be banned and prizes and exemptions would be granted to the fathers of large families. "In a word," says Gonnard, "society was regarded as a plastic substance to be cut, shrunk, expanded, at the pleasure of the legislator, who might force a given number of citizens to remain crowded within the categories which it suited him to fix, like the Chinese or Japanese gardener, cramping and torturing trees hundreds of years old so as to keep their growth within the narrow limits which his ingenious and strange art assigns to them."

Aristotle followed in his master's footsteps. He was, however, less visionary, pointing out the fallacy of leaving to some imaginary combination of sterile and fertile unions the maintenance of a balanced population. Aristotle committed himself to state regulation of population, even by such methods as abandonment, infanticide, or early and deliberate abortion. "The most suitable limit for the population of a city is that it shall include the largest number of inhabitants requisite to satisfy the necessities of its life, without making their proper supervision difficult."

This fundamental principle, in Aristotle's eyes, justified the astonishing régime of artificial intervention that he describes. Women were permitted to marry at eighteen, but men only at thirty-seven. Men over fifty-five were denied the right of paternity. Minute provisions were suggested by him with respect to prenatal care and the physical education of young children.

"These theories of Plato and Aristotle concerning population," says Gonnard, "may appear in many respects decidedly archaic and inspired by a spirit far distant from our own. Nevertheless, they are less so than may seem at first glance. In the Malthusian and neo-Malthusian literature of our day, we have seen reappear the fallacies and ideas of the Greek philosophers. Oftentimes, in connection with population, as with so many other matters, history indicates that there is perhaps no system which one may regard as having wholly disappeared. Those theories which at a certain moment may seem irrevocably out of date and discarded, often reappear inconspicuously and without being noted, hardly modified, and become incorporated in doctrines proclaimed and accepted as new."

As the lives of nations go, it did not take long for the Hellenes to realize how utterly mistaken their philosophers had been. Children born the year that Alexander died witnessed the disintegration, the social demoralization, and the economic disasters of the Greek states. Polybius could write within a century of the death of Aristotle that Hellas "suffers from the cessation of procreation, and from a lack of human beings, so that whole cities have become deserted, and that sterility is universal even though we have not been afflicted either by continual warfare, nor by its disastrous consequences." He found the cause of it all in the love of display and of idleness that caused his fellow Greeks to avoid marriage and paternity.

"The most they consent to do," he wrote, "is to have one or two children whom they may leave rich and seated in the lap of luxury." It was the hope of the great historian that men would change their fashions and mend their ways; if not, "let laws be made to compel them to have children." But already the chariots of the Roman soldiers were outside the city gates. Greece, "whose philosophers had been haunted by the nightmare of overpopulation, fell, half-wasted and depopulated, into the hands of Rome."

In the period when control of Greece and of much of the rest of the Mediterranean seaboard passed into Roman hands, the principles and traditions of agricultural austerity still prevailed among the Romans; marriage was still a legitimate union intended for the rearing of children. The population grew rapidly in spite of the endless warfare Rome carried on with her neighbors until, step by step, she dominated the peninsula, and made her first thrust overseas. The employment of so large a part of the adult population in almost endless warfare led to the gradual abandonment of agriculture by the small proprietor, and the professional soldiery in the rare years of peace devoted themselves to restless activities in the capitals of provincial states. Agriculture declined rapidly; and the older traditions of family life began to disappear.

Evidently this change in population trend did not pass unnoticed, nor did it fail to cause anxiety, as legislation designed to encourage marriage and parenthood soon made its appearance. In 131 B. C. the censor Metellus definitely proposed that all citizens should be required to marry. In 59 B. C. Julius Cæsar caused to be enacted a law providing for the distribution of farms among the fathers of three children; there were but 20,000 persons eligible for this distribution of free land. His next step was the institution of a program of prizes for large families, and the prohibition of celibacy. These he enacted as prefect of morals, a position which he reserved to himself for life.

With Augustus, the situation became acute. Disinclination to marriage and parenthood was widespread. There was no longer a religious sanction, the ancient beliefs of Rome having been undermined by the philosophy of individualism. It might be said in passing that it is this philosophy of individualism that is having a similar effect upon our national life to-day. Patriotism, in antiquity so closely identified with religion, suffered with the decline of the latter. Augustus endeavored to make it imperative for each individual to marry and establish a family. A code of legislation controlling testamentary freedom was enacted in the attempt to end the substitution of self-centered lives of lay celibacy for family life.

Such testimony as we have from contemporary or slightly later historians, such as Tacitus, leads us to believe that the legislation was ineffective. So, too, were the enactments of the emperors who succeeded Augustus. For two centuries they endeavored to carry out the spirit of the laws of Augustus, adding to his statutes and endeavoring to encourage matrimony and parenthood. Even though the capital continued to grow by immigration from all corners of the empire, however, and the great cities of the provinces likewise increased in size, the aging of the entire population and the recession from the rural districts foreshadowed inevitable decay.

With the advent of Christianity came an appreciation of celibacy based on supernatural motives. The

Christian Fathers uniformly praised virginity, but never to the disparagement of marriage. Those who wrote on marriage insisted upon parenthood as its object. The refutation of heretical doctrines often involved the condemnation of extremists who advocated the cessation of procreation in order that a wicked world might all the sooner come to its end. St. Ambrose, for example, demonstrated that the widespread invocation of the principles of chastity must produce in the end a larger population, and must assure to the world more people than it would take away through the state of religious celibacy. The Doctors of the early Church preached in season and out of season the indissolubility of marriage and specifically condemned all that tended to defeat its purpose. Only their powerful influence and that of the thousands of priests and bishops who took up their mission could have carried on an exhausted world and encouraged the detritus of the empire's population to absorb the invading Germanic peoples.

Apparently the process of depopulation throughout western Europe continued for some centuries into the Middle Ages. All through this period emphasis continued to be laid upon the necessity for combating the downward trend. There was no longer interest in the notion of Plato and Aristotle that the requirements of good order made necessary a restriction of some sort, and so strong an opinion prevailed against celibacy that St. Thomas felt called upon to present a defense of this state in life. He declared that the responsibility of maintaining the population of the earth rested upon the mass of mankind, but pointed out that this was not an obligation of each individual. "The individual," he said, "may refrain from marriage because he knows that the select group which he thereby joins will always be so small as in no way to endanger the population of the earth."

Examples abound of learned or popular discussions and dialogues which clearly illustrate the feelings that governed the thought of the time, namely, that population must be kept up and celibacy not encouraged, except in those rare instances where overpopulation seemed imminent. Even in these instances, however, it is always clear that the restriction implied was to be the result of continence, and not of contraceptive practice or the more brutal methods of antiquity.

As the Middle Ages came to an end, the emphasis in discussion of population came to rest rather on economic considerations than upon the purely political aspects that had previously had most weight. With this change in emphasis came a fairly general acceptance of the belief that the strength of nations lay in numbers of men. There were, indeed, occasional expressions of reservations on the capacity of the planet to absorb an unlimited population. It is interesting to note that in 1494 a prominent churchman, Bishop Francis of Gaeta, expressed some fear of overpopulation and sought to establish a relation between the size of a people and its means of subsistence. Machiavelli endeavored to determine the relationship between the productivity of the soil and the limit of increase of mankind. More notable still was the penetrating study of Botero (1540-1617), whose work is commonly regarded as the earliest important discussion of population in modern times. Botero contrasted the Socratic hostility to increasing population with the theories of the Roman emperors who looked upon power and prosperity as derived from the growth of their people. His own inclination was plainly stated in favor of a growing population, although he remarked that there were certain points beyond which growth seemed impossible. He recommended the encouragement of agriculture and industry, and the introduction of all sorts of new trades. Two centuries before Malthus he reached the conclusion that "the propagation of mankind is necessarily limited by the lack of food and sustenance." Unlike Malthus, he was not so apprehensive of the consequences of overpopulation as to oppose assistance to the poor.

Those who study the period between Botero and Malthus are struck by the fact that the bulk of the continental writers were "populationists"—that is to say, advocates of increase in population—while the British writers, on the other hand, were increasingly apprehensive of the dangers of overcrowding. The point of view of the latter has its roots in the consequences of the enclosure system, whereby the nobility brought about a concentration of land in their own hands, thus setting up a serious barrier to the development of small agricultural holdings, and relentlessly driving the population into the cities to exist in whatever way they could in industry and trade. It was this condition from which originated the frank pessimism that has marked British thought on this subject from the sixteenth century to our own day.

In population discussions of the eighteenth century, three names stand out, the Italian, Giammaria Ortes (1713-1790); the German, Peter Süssmilch (1707-1767); and the Englishman, Thomas Robert Malthus (1766-1834). Süssmilch believed in the increase of population because he was convinced that national prosperity, security, power, and wealth would be in proportion to the number of inhabitants. The Creator had intended that mankind should multiply until the earth should be filled, and the business of the state was to struggle against the obstacles in the way of such increase. As a Christian of deep conviction and as a pronounced nationalist, Süssmilch implanted in German thought a profound optimism in the matter of population.

Ortes has been described as the most interesting and original of all Italian economists.[1] A Camaldolese monk who lived and died on the Island of Murano, outside of Venice, he spent the greater part of his life in the preparation of a wide range of books covering the whole field of economics. His "Reflections upon Population" appeared in 1790. In this volume Ortes presented the view that the maximum of all natural resources would be sufficient for not more than 3,000,000,000 human beings. This was represented as the upper limit possible for the world's population. He thought, however, that the practical limit would be reached far short of this figure because of the conditions under which the soil and the wealth of the world are distributed. Ortes, who may be classed as free of the pessimism of Malthus and the British writers, pointed out the possibility of a relative overpopulation that bore relation not to natural resources but to the demand for labor. Speaking of Ortes and the Italian writers in general, Gonnard writes: "They see the possibility of a rapid increase in population and the impossibility of a parallel movement of natural resources, ending in the sudden cessation of population growth. But this situation does not alarm them. . . . They retain their optimistic confidence in the harmony of the natural law and, to a large degree, in the productivity of agriculture."

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[1] Gonnard, *op. cit.*, p. 250.

The high-water mark of British pessimism is "An Essay on the Principle of Population," by Thomas Robert Malthus, a clergyman of the Church of England. This made its first appearance in 1798 and after many revisions came out in its final form not long before the author's death in 1834. In this volume Malthus laid down the principle that a fatal disproportion exists between the increase of mankind and the increase of the resources by which he can live. If no obstacle appears, Malthus declared, the population will double every twenty-five years and grow by geometric progression. The best possible manipulation of natural resources will not permit a growth in excess of arithmetic progression. Population growth may be hindered by shortage of substance, or by voluntary restrictions such as the practice of continence or the use of contraceptive methods. By implication, he condemns contraception, and commends continence or "moral restraint" in the highest terms. Malthus represents the swing of the pendulum in the extreme direction of the conservatism of property and of ideas. In quite different circumstances, he presents a point of view almost identical with that maintained twenty-three centuries earlier by Socrates and his illustrious pupils.

This noted essay by Malthus became one of the most influential works in the whole field of population discussion. Translations soon became available in French, German, and other tongues, and for some years his name stood beside that of Adam Smith and the other authorities on political science and economics. David Ricardo accepted the conclusions of Malthus and very largely formulated his system of economic theory upon the Malthusian interpretation. The influence of Ricardo upon all economic theory in English-speaking countries has been profound. John Stuart Mill also, in his "Principles of Political Economy," accepts without argument the Malthusian contrast of human multiplication and the inelasticity of natural resources.

Malthus, Ricardo, and Mill were, of course, fiercely attacked as representative of a class point of view and selfish economic interest. It was only in the last quarter of the nineteenth century that the imminence of a stationary population in France brought about a change in the previous acceptance of the validity of Malthus's conclusions. Views of European scholars concerning the relation of prosperity to population growth began to be popularized. Since that period it may, in general, be said that the drift of opinion has been away from discussion of the upper limit of population and towards the problem of what is described as "the optimum," i.e., the best possible number of people. The English-speaking world is still profoundly pessimistic, almost all literature on population being steeped in Malthusian and Ricardian economics and advocating a restrictionist public policy. On the continent of Europe, on the other hand, imminence of a decline in population has caused a feeling of alarm among economists.

One point in the neo-Malthusian literature that is now making its appearance in Great Britain and the United States is of special significance. Malthus, Ricardo, Mill, and others of their school discussed the whole question from the point of view of economists. The economic developments of the last half-century have shown the substantial invalidity of their conclusions. As a result, to-day emphasis is shifted from the economic to the social and humanitarian aspects of the problem. The writer of to-day who styles himself a neo-Malthusian is likely to bear small resemblance in his theories to the author of "An Essay on the Principle of Population."

From the far reaches of antiquity, therefore, to our own day, the question of population has provided a fertile field for thought and dialectic. It is a surprise to realize that the opinions on the subject which are presented to us almost daily in pseudo-scientific and popular media, were expressed with equal vigor and conviction more than a score of centuries ago. Our surprise deepens when we discover to what extent successive phases of thought and theory have followed each other in cycles through the generations intervening, now with emphasis on population restriction, now with the pendulum swinging to the other extreme, marriage and parenthood being looked upon as a duty to the state.

History points out many examples of the fall of entire races. The decline and fall of peoples now numerous and prospering is not inconceivable.

## CHAPTER VIII

## THE ALARMISTS AND THEIR THEORIES

IN the preceding historical sketch, it is seen that at almost all periods in the known chronicle of mankind, anxiety has been felt as to the capacity of the world to support a constantly increasing population. Is this anxiety justified? Is there danger, imminent or remote, of an overcrowded world?

Those who speak of overpopulation do not always mean the same thing. Propaganda for the restriction of population is vague and confusing. Even the genuinely impartial treatise on the subject frequently fails to make the necessary distinctions. A more complete examination of the term is essential.

"Overpopulation" may be used in an absolute or in a relative sense. It is in the absolute sense that the term is usually interpreted in the popular mind. The advocate of the policy of population restriction, when he dangles terrifying specters of an overcrowded world before our eyes, is speaking of absolute overpopulation. By this he means simply a population increased to such a degree that all the available resources of the world bulked together would not suffice to maintain life. A fearful struggle for the bare means of subsistence would result; scenes of brutality, callousness, and suffering—life for the strong, death for the weak. War, pestilence, and famine would be the triple scourge of an overpeopled planet. A tortured world would see the end of peace, the end of justice, the end of charity; the end of all the higher things of life, ideals, honor, culture; the end of learning and education and the arts; the end of everything except the struggle to keep alive. Factories dismantled to make way for farms; public buildings, monuments of the past, demolished that a few more square feet of tillable ground may be uncovered; man born but to struggle for life, and slain by his own parents as an act more kind than allowing him to live; man unborn because those who should have been his parents, in the bitter struggle for existence have lost even the mating instinct—here is the prophecy made by the advocate of restriction who fears a population that will outstrip the resources of nature.

Not all, however, are so pessimistic. Those who fear overpopulation as thus described are probably outnumbered by those who speak of overpopulation in a purely relative sense. These may be grouped into two general classes: the adherents of the so-called "law of secular diminishing returns" and the proponents of the "optimum" concept.

Those who accept as their philosophy the theories just mentioned are not primarily concerned with the upper limit of population capable of being sustained by the world. Restriction must be set in motion long before there is question of the fearful state of affairs described above. These persons aim not only to prevent absolute overcrowding, but to limit the population to such size as can be amply provided for. As one of their spokesman says: "The only relief for the situation is to call a halt on growth at a point far below the final subsistence limit, at a point, in fact, where there is no intense struggle for mere existence." [1]

The so-called "law of secular diminishing returns" provides one sector of this group with its basis for advocating population restriction. The substance of the law is that after a certain point in the growth of a population is reached, increasing quantities of food can be procured only at the expense of greater effort and sacrifice. It holds that there comes a time when every increase involves a lowering of the scale of living. This will occur long before there is any such thing as the absolute overpopulation described above. At the point when better living conditions would exist if numbers were fewer, we are, according to the proponents of this theory, in the presence of relative overpopulation.

This line of reasoning has been refined by another group of restrictionists into what is known as the "optimum" concept of population. They contend that in the growth of population there is a certain point above or below which the scale of living would not be the best attainable. Once this point has been reached, either increase or decrease would react unfavorably. The aim of the advocate of the optimum is, therefore, to find this precise point and then to maintain the population stationary.

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[1] E. M. East, "Mankind at the Crossroads," 1927, p. 344.

With this brief presentation of the three general theories submitted by those who advocate a policy of population restriction, let us now examine each in more detail. We shall set them forth in the chapters that follow, citing as fully as may be necessary the texts of those who are regarded as authorities. We shall later indicate how these theories fail to present any true explanation of the problems of population trends.

## CHAPTER IX

# ONE THEORY: ABSOLUTE OVERPOPULATION

WHAT is the ultimate capacity of the world? Many and varied have been the results of the elaborate calculations made in the attempt to answer this question. According to Sir George Knibbs the known area of the earth's surface is about 197,000,000 square miles, excluding some portion of the polar region. The land surface of the world is taken to be 52,500,000 square miles. It must, however, be remembered that much of this land area is unproductive in character. East and Pitkin assume that only approximately forty per cent of the total land area can be used for the production of food. It is argued further, that not only is agriculture limited by the amount of land but also by the fact that certain chemical elements of the soil, required for efficient production, are becoming exhausted. The same condition is said to exist in regard to the power, mineral, and fuel reserves, which are almost equally necessary for human existence. To quote Knibbs again: "The facts . . . indicate that there are after all very real limits of the possibility of agriculture and the population that is dependent upon it. The somewhat popular notion that an intensive system of agriculture can be almost illimitably developed, so as to meet all possible difficulties that can arise in respect to food supplies, is invalid." [1] Regarding other resources Knibbs foresees a troublesome future. "The rate of exploitation," he says, "of the earth's resources of coal, iron, copper, zinc, tin, aluminum, and perhaps even of gold has been increasing. . . . Known supplies of minerals and metals would soon utterly fail if the accelerating rates at which many of them have been recently developed were to be kept up." [2]

Knibbs approaches the problem by taking into account the earth's cereal production, which plays so vital a rôle in the world's life. From this starting-point he arrives at the figure of 8,978,000,000, "an estimate of ultimate population," he says, "that is probably fairly accurate, the average standard of living remaining as it is at the present."

He makes another calculation by deducting from the total land of 52,500,000 square miles, 26,250,000 as allowance for rocky, mountainous, desert, and cold regions, for forests, roads and railways, for factory and residence purposes, leaving 26,250,000 square miles, or 16,800,000,000 acres, to be devoted to the direct support of population. If, as he assumes, two acres be sufficient for the support of a person, then 16,800,000,000 acres would permit a maximum population of 8,400,000,000. And finally, he makes another estimate on the basis of arable land and production of wheat per acre. By this method he arrives at an upper limit of a population of 8,950,000,000.

Pitkin assumes a maximum population of 13,000,000,000.[3] East thinks that the world can support 5,200,000,000.[4] Albrecht Penck calculates the "highest thinkable" number as approximately 15,900,000,000.[5] Pearl considers "something over 2,000,000,000" as an upper limit.[6] Ballod concludes that 2,333,000,000 can live on earth, according to the standard of living in the United States, where 2.97 acres are taken to be necessary for the support of one person.[7] Under the German standard of 1.24 acres to the person the world could sustain 5,600,000,000. And finally, if the Japanese standard of .31 were to be maintained throughout the world, he calculates that the earth could support 22,400,000,000. Franz Oppenheimer, a German economist, believes that 200,000,000,000 people can be fed from the earth,[8] an estimate to which Ross refers as a "bad dream." Other estimates of the world's greatest potential population are 5,994,000,000 [9]; 7,800,000,000 [10]; 7,000,000,000 [11] and 6,200,000,000.[12]

Many endeavors have been made to demonstrate to what extent the future population of the United States is limited. Brigham as early as 1909 calculated on the basis of our agricultural potentialities that the capacity for population for the United States was 305,000,000.[13] As a result of far more intensive investigations made in recent years, Dr. O. E. Baker of the United States Department of Agriculture comes to a different conclusion. According to him, we have 503,000,000 acres of improved land and 300,000,000 acres that by the intensive process of reclamation, irrigation, drainage, and clearing, and by various other methods of "amelioration," can be brought into use for crops. The present available area can be increased approximately forty-seven per cent. Moreover, increased production per acre may result from more intensive cultivation. By comparing the yields per acre of German crops with ours, the conclusion is that by more intensive methods our production may be increased thirty-three per cent. A further increase of about ten per cent can be realized by the use of some of our improved pasture lands for crops. By these means and by declining exportation of farm-products Baker estimates that we can maintain a population of 275,000,000 at present standards of consumption.[14] Finally, by changes in our habits of consumption, such as adopting a largely vegetarian and dairy diet, Baker concludes that we could maintain a population of from 400,000,000 to 500,000,000 as long as the fertilizer supply holds out.[15]

E. M. East, accepting the estimates made in 1918 by Baker and Strong of the Department of Agriculture, allows that we have 800,000,000 acres of arable land. "Then if we use our old figure of 2.5 acres per person as the prospective continuous food power of the cultivated land, the 800,000,000 arable acres will support 320,000,000 people."[16] In addition, he believes that grazing land can support 4,000,000, and forest land 7,000,000, so that in all our limit of population would be 331,000,000. But he says that "to feed 331,000,000 mouths it will be necessary to double the present production on every acre of available land and to keep the production continuously on this basis." [17] This, he believes, would be entertaining extravagant hopes. "My own personal belief is that Pearl's prediction of approximately 200,000,000 as a saturation point under present standards is more in keeping with the facts." [18]

Pearl's calculations, based upon an estimate of the total capacity for production of the United States in calories, approximates, as just indicated, 200,000,000 people. Griffith Taylor believes that the United States can maintain a population of 513,000,000.[19] Penck states his estimate as 600,000,000.[20] Lescohier shows the influence of his study of O. E. Baker when he concludes that "even if the waste and unnecessary luxury of American habits of consumption were eliminated, our saturation population would not be far above or below 300,000,000." [21]

So much for the estimates as to the number of people capable of being supported in the United States and in the whole world respectively. How long will it take the United States and the rest of the world to reach this upper limit? The direct statement that the United States is rapidly becoming filled is made with less frequency than the similar statement regarding the world at large. There is often a tendency, however, to view our growth in the past as an indication of the rate of increase in the future.

In 1790, the United States had 3,900,000 inhabitants. In 1920, there were 105,700,000, representing an annual average increase of two and sixth-tenths per cent. If this rate were to continue an assumed upper limit of 500,000,000 would be reached about 1981. During the last decade the growth of population has been at an average annual rate of one and three-tenths per cent. If this rate of increase were to persist the assumed upper limit would be reached in one hundred and twelve years. Ross, in his volume "Standing Room Only?" although granting the part played in the expansion of the population of the United States by the 33,000,000 European immigrants and their descendants, expresses grave concern over the rapid rate of increase. He fears the approach of the saturation point. O. E. Baker feels that "It is natural that many people in Europe and a few in North America should see in southeastern Asia a vision of the future condition in their own continent and be troubled in mind, if not oppressed by the thought of approaching population pressure, poverty and weakness." Baker, however, does not accept the pessimism of Ross. He admits quite frankly that "it is possible our calculations may prove to be mistaken." [22] From a review of the agricultural situation Baker is of the opinion that "the future food supply of the American people seems assured, both in regard to quantity and variety, for at least a century, probably permanently." In a later chapter Baker's reference to the calamitous effect of a declining population on the agricultural situation in the United States will be stated.

E. M. East, who evidently based his calculations of the rate of increase upon a comparison of birth and death rates, is extremely pessimistic. Comment on the fallacy of this mode of calculation will also be made in Chapter XI. It should be stated at this point, however, that this is a not uncommon procedure for investigators of the population problem, and it is upon this basis that many lugubrious forecasts of rapid increase are framed. "To-day," to quote from East, "we are going at full speed ahead. The human race has had a long pull of half a million years since it first rose up on its hind legs and made a bid for world supremacy; it has had a history of at least 10,000 years since it developed enough mentality to leave written records; yet in all this time its natural increase was so slow that in the year 1800 there were less than 850,000,000 people. Since that time, a short hundred years, the population has more than doubled." [23]

Dean Inge, well-known prophet of gloom, has summarized this attitude. "I suppose," he said, "we may take it that there is no doubt that there is a limit to the number of people that can be supported in the world, nor that, if the birth rate had no restrictions upon it in any part of the world, that limit would be reached in less than a century.[24]

It is evident that the present rate of increase of mankind is to be related to the total population of the world. Figures that are at all trustworthy are available for only a fraction of the earth, so that any attempt at exact calculation is more or less of a guess.

Carr-Saunders assumes that the world's population is 1,700,000,000.[25] East, Penck, Knibbs, and the International Institute of Statistics give varying estimates, rising to a maximum of 1,950,000,000. Asia and Europe are said to be overpopulated, so that any considerable increase on these continents is regarded by the neo-Malthusians as undesirable. According to East, "After the United States in potential power of expansion come temperate South America, Canada, Australia, and temperate Africa in this order."

Taking a broad view of history, we see that little is known of the rate of increase of the human race, other than that it has varied from time to time. The alarmists are quick to be aroused by superficial aspects of these variations. Among the neo-Malthusians themselves there is a wide variety of opinion. There is, however, sufficient agreement to have led Knibbs, for example, to the conviction that "some measure of the control of births in some way or other is inevitable," and Ross to believe that "at a date no more distant from us than is the capture of Jerusalem by the Crusaders, humanity would be justified in hanging on our planet the sign 'Standing Room Only.' "

These conclusions are based upon a complete misapprehension. This becomes evident in the light of a thorough understanding of these two essential facts: (1) The population of much of the world, far from increasing at the rapid rate commonly supposed, is at the present time actually on the verge of decline; and (2) even if it did continue to increase, the resources of the world are such that there is no upper limit to its capacity reasonably predictable in other than the language of mathematical speculation.

Recent authoritative studies bear out these two important facts, and dissipate the forebodings of any imminent crisis from these causes. Data, presented in the following pages, are conclusive. To-day, proponents of population restriction are compelled to retreat from statistical and economic grounds and fall back upon an emotional presentation of their case.

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[1] G. H. Knibbs, "The Shadow of the World's Future," Ernest Benn, Ltd., London, 1928, p. 43.

[2] *Ibid.*, p. 44.

[3] Walter B. Pitkin, "Must We Fight Japan?" The Century Co., New York, 1921, p. 302.

[4] *Op. cit.*, pp. 69, 70.

[5] Albrecht Penck, "Das Hauptproblem der physischen Anthropogeographie," "Sitzungsberichte der Preussischen Akademie der Wissenschaften Physikalisch-Mathematische Klasse," Vol. XXII (1924), p. 251.

[6] Raymond Pearl, "Studies in Human Biology," Williams and Wilkins Company, Baltimore, 1924, pp. 632-34.

[7] Karl Ballod, "Wieviel Menschen kann die Erde Ernähren?" "Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft von Deutschem Reich," Leipzig, Jahrgang 36 (1912), pp. 81-102.

[8] Franz Oppenheimer, "Das Bevölkerungsgesetz des T. R. Malthus und der neuren Nationalökonomik," 2d edition, Akademischer Verlag für Sociale Wissenschaften, Berlin, 1901, p. 158.

[9] E. G. Ravenstein, "Lands of the Globe Still Available for European Settlement," *Proceedings* of the Royal Geographical Society and *Monthly Record of Geography*, new monthly series, Vol. XIII, London, 1891, pp. 27-32.

[10] Arthur, Freiherr von Fircks, "Bevölkerungslehre und Bevölkerungspolitik," Leipzig, 1898, pp. 295 ff.

[11] H. Losch, "Die Grössengrenz der Erdbevölkerung," "Wittembergische Jahrbücher für Statistik und Landestunde," Stuttgart, 1923, pp. 164-75.

[12] Alois Fisher, "Zur Frage der Tragfähigkeit des Lebensraumes," "Zeitschrift für Geopolitik," Berlin, October, 1925, pp. 762-79 and November 1925, pp. 842-63.

[13] Albert P. Brigham, "Capacity of the United States for Population," "The Popular Science Monthly," Vol. LXXV, No. 3 (1909), pp. 208-20.

[14] O. E. Baker, "Land Utilization in the United States," *The Geographical Review*, New York, Vol. XIII, No. 1 (January, 1923), p. 14 ff.

[15] *Ibid.* [16] *Op. cit.*, p. 158. [17] *Ibid.* [18] *Ibid.*

[19] Griffith Taylor, "The Distribution of Future White Settlement, a World Survey Based on Physiographic Data," "The Geographical Review," New York, July, 1922, p. 400.

[20] *Op. cit.*, p. 254.

[21] Don D. Lescohier, "Population and Agriculture," "Population Problems in the United States and Canada," edited by Louis I. Dublin, Houghton Mifflin Company, Boston, 1926, p. 89.

[22] O. E. Baker, "Population, Food Supply, and American Agriculture," "The Geographical Review," Vol. XVIII, No. 13, The American Geographic Society of New York, July, 1928.

[23] *Op. cit.*, pp. 66, 67.

[24] National Birth Rate Commission, "The Declining Birth-Rate: Its Causes and Effects," London, 1916, p. 293.

[25] A. M. Carr-Saunders, "Population," Oxford University Press, London, 1925, p. 5.

## CHAPTER X

# ANOTHER THEORY: THE LAW OF DIMINISHING RETURNS

POPULATION restrictionists who recognize the invalidity of the assumptions upon which rests the neo-Malthusian fear of absolute overpopulation, turn sometimes to what is termed "the law of diminishing returns." The distinction between absolute and relative overpopulation was stated at the outset of Chapter VIII. Absolute overpopulation would be said to exist if at some time there were more human beings than the world could support. Relative overpopulation, on the other hand, would exist were the increase in numbers to be such as to result in a lowering of the scale of living. It is the latter concept upon which rests this much-discussed theory.

The law of diminishing returns began to take on importance early in the nineteenth century. During the Corn Law discussions, Sir Edward West formulated the principle in these terms: "*Each equal additional quantity of work bestowed upon agriculture yields an actually diminished return, and of course, if each equal additional quantity of work yields an actually diminished return, the whole of the work* *bestowed upon agriculture yields an actually diminished proportionate return.*"[1] By way of illustration: Let us suppose that in a particular locality there are nine farms, each consisting of 120 acres, and all devoted to the raising of wheat. It must be assumed also that these nine farms have the same quality of soil, and that the wheat-growers have all applied the same efficiency in production. The following table represents hypothetically the results in production of the various farms:

| | Number of Wheat Growers Equally Supplied with Capital (Input) | Total Production of Wheat (Total Output) in Bushels | Amount of Wheat Produced per Grower (Average Returns) in Bushels |
|---|---|---|---|
| Farm I | 2 | 120 | 60 |
| II | 3 | 195 | 65 |
| III | 4 | 276 | 69 |
| IV | 5 | 365 | 73 |
| V | 6 | 450 | 75 |
| VI | 7 | 511 | 73 |
| VII | 8 | 560 | 70 |
| VIII | 9 | 594 | 66 |
| IX | 10 | 610 | 61 |

It will be noted that the average amount of wheat produced per grower increases on Farms I to V inclusive. Farm I with but two workers produced a total of 120 bushels, or an average per worker of 60; Farm II, with three workers, reached the total of 195, or an average of 65 per worker; and so on until on Farm V, six workers produced 450 bushels, an average of 75 to each worker. Farm VI, however, with seven workers, and an increase of total production to 511 bushels, showed a decrease in average per worker to 73. By the time Farm IX was reached, ten workers averaged only 61 bushels each. In other words, Farm V, with six workers, was the point of maximum return; after that the addition of more labor caused decreasing returns. Consequently from the point of view of physical output, it would be most profitable to employ six workers, but no more, on each farm.

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[1] Quoted by Edwin Cannan, "Wealth," P. S. King & Son, London, 1914, pp. 57-58.

The principle contained in the preceding statement and its illustration fails, however, in that it does not include an allowance for a very important fact, namely, that the diminution of returns might be prevented from actually taking place by improvements, inventions, and better technique. Alfred Marshall, the English economist of recent times, restated the principle, but included such a provision: "An increase in the capital and labor applied in the cultivation of land causes in general a less than proportionate increase in the amount of produce raised, unless it happens to coincide with an improvement in the arts of agriculture."[2]

The principle of diminishing returns thus originally formulated by West and discussed by Ricardo and others, with respect to the cultivation of grain, was seized upon by later economists as an expression of the effects of growth in population. It thus came to be falsely interpreted as meaning that every increase in population would result in a similar reduction of goods per person.

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[2] Marshall, "Principles of Economics," 8th edition, Macmillan Company, London, 1920, p. 150.

This view is formulated typically by Harold Wright in his volume "Population" in these words: "The growth of population increases the demand for food," and "the law of diminishing returns shows itself in increasing difficulties in extracting further food supplies from the soil."

According to East: "There is conclusive evidence that the output per man is diminishing, despite the improved varieties of the staple crops, and the new machinery for tilling them, and despite the more general adoption of crop rotation and pest control measures. This means that we must work harder for what we get." This country, he alleges, "entered an era of diminishing agricultural returns somewhere between 1890 and 1900." Ross, in his "Standing Room Only?" sees us tobogganing down the slopes of diminishing returns toward world-saturation.

Warren S. Thompson, in a study largely devoted to an attempt to prove that this country had already, early in the century, entered a period of diminishing returns in agriculture, believes that "the vital question to us is whether the United States can keep up its rate of increase indefinitely, and still offer the good conditions of life which it does at the present time." Don Lescohier says that "agriculture in the United States, most authorities agree, is now operating under conditions of diminishing returns," and furthermore, that "we of the present generation should frankly face the fact that we are working under conditions of minimum costs in food production, and that our descendants must work under conditions of increasing difficulty."

Dr. Baker in 1925 remarked: "Our nation is probably near, possibly past, the crest of greatest average income per capita; and every increment of population is likely to increase the complaints of the high cost of living." Another neo-Malthusian, Cox, says: "New processes may, it is true, temporarily suspend the law of diminishing returns and enable a greater increase of produce to be secured without a corresponding increase of cost; but broadly speaking it is true that if we ask more of the soil, more is only yielded in return for proportionately greater expense." J. S. Mill, in agreement with many economists of the nineteenth century, believed that, "After a degree of density has been attained sufficient to allow the principal benefits of combination of labor, all future increase tends in itself to mischief so far as regards the average condition of the people." In their opinion this degree was supposed to have been reached, at least in "all the most populous countries," before 1848, so that populations were at that time looked upon as excessive, and should have increased no further. Even though improvements in the arts of production may occur, it is believed that they only restrain the force of the law of diminishing returns, and consequently increase in population is not considered any less undesirable.

This phase of the economic argument against population increase aims, therefore, at supporting the proposition that in the future, successive generations will face a continually increasing difficulty in obtaining food. Therefore Pitkin concludes, although erroneously, as it will be pointed out further on, "Man must control the birth rate, and keep his numbers within reasonable limits, or he must suffer from the hardships of a continuous and severe struggle with nature to get a scanty livelihood."

## CHAPTER XI

# IS THE WORLD TOO CROWDED?

THE two theories explained in the preceding chapters of this section rest upon the general assumption that the world's population to-day is not only steadily increasing, but will continue to do so indefinitely in the future. This assumption is what disturbed the Greek philosophers who, with such tragic success, threw the weight of their influence in favor of population restriction. It was this same assumption that in more recent times led Malthus to enunciate his theory of population.

But is this assumption actually founded upon fact? Is the world's population to-day actually assuring its own future replacement? This question perhaps cannot be answered for the entire world. It has been answered, and most disconcertingly, for that part of the world concerning which we are most fully informed. And the answer is that the "standing-room only" idea is a bugaboo.

Literature on population has been filled with visions of an overcrowded world. This insistence in the past has indoctrinated the public mind to such an extent that it does not appreciate the real reason for the notable silence on the subject of overpopulation at recent birth-control conferences, and fails to realize that these fear-inspiring forecasts have long since been relegated to the limbo of discarded myths.

Occasionally, it is true, incautious popular speakers at such gatherings, misled by propaganda of a day when the Malthusian theory of geometric increase still offered fertile field for mad speculation as to the future of the race, embarrass their associates by resurrecting some now discredited prophecies of evil. But students of population trends have known for some time, and, as far as the United States at least is concerned, the 1930 census shows that to-day we have no problem of overcrowding. Rather do we shiver a little at the realization that the reverse process has already begun, the downward trend is under way, the winding-sheet of one more civilization is in the weaving. "While the 'reformers' are bewailing overpopulation," writes Dr. F. J. McCann, saying of his own country, England, what might well be said of the United States and much of the rest of the world, "the specter of depopulation is abroad in the land, pursuing undisturbed a stealthy and devastating career."[1]

Discussion of population theory has been going on for centuries. In Chapter VII it was traced back as far as the Semites and Zoroaster of the Persians; the Greeks and the Romans had well-defined theories on marriage and parenthood. In the fifteenth, sixteenth, seventeenth, and eighteenth centuries a succession of Italian economists found the subject of much interest. It was a writer of this school, as we have seen, Giammaria Ortes, who made one of the most notable contributions to the literature of the subject. His "Reflections on the Growth of Peoples" at that time had a profound influence throughout Europe, and is still the object of serious and reflective study.

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[1] McCann, "The Disastrous Influence of a Declining Birth Rate on the Life of a Nation," p. 3. Dr. McCann is president of the League of National Life, England, and vice-president of the Comité Internationale pour la Vie et la Famille.

Several decades later, Thomas Robert Malthus undertook to deal with the subject of population. Whereas Ortes had dwelt upon the very important economic readjustments that must follow the gradual growth of population, and had warned his readers of the many social difficulties and hardships that expanding *urban* populations would have to endure, Malthus, foreseeing an overcrowded world, went far into the field of speculation and propounded his famous formula of the geometrical increase of population as opposed to the arithmetical increase of natural resources.

The importance of these two men has been pointed out. All subsequent theoretical discussion of population has been influenced by their presentation of the case, in the English-speaking world by Malthus, and on the Continent by Ortes and the other great economists in France, Germany, and Italy who followed in his footsteps. The result is that most of the literature in English to-day is based on the totally erroneous assumption that population not only is increasing but will go on increasing, while in France, Germany, and Italy the true trend of population seems to be known to a not inconsiderable number of people of the professional and law-making classes.

We have noted that to-day, however, even in Great Britain and the United States, the real state of affairs is gradually being recognized. The profound research and scholarly presentation of such men as Corrado Gini, president of the Central Statistical Institute of Rome, Italy, Robert R. Kuczynski of the Brookings Institution, Washington, D. C., Louis I. Dublin and Alfred J. Lotka, statisticians of the Metropolitan Life Insurance Company, the late Dr. John Brownlee in England, and others, have supplanted the fantastic and alarming pictures of the future drawn by Carr-Saunders, Knibbs, East, Ross, and their associates, with more reasoned, if less sensational, forecasts. As a matter of fact, far from having cause for anxiety as to where the food supply of the future is to be found, the situation with which we are faced holds quite a different set of problems. What this situation is may be briefly stated:

*Every country in Europe that is not predominantly Slavic in origin or present racial composition is to-day actually showing a deficit in reproduction, and precisely the same thing is happening in the United States.* This means that the present populations of these countries are failing to provide sufficient replacement to maintain themselves in the generations just ahead, with the result that they are on the eve of becoming stationary, with actual shrinkage inevitably to follow in the near future.

This deficit in reproduction, for the countries of northern and western Europe, averages about seven per cent per generation. This is equivalent to saying that on a given day there are born in these countries only ninety-three per cent of the number of children who would have to be born if, twenty-seven or twenty-eight years later, the population were to be exactly the same. In Germany this shrinkage amounts to ten per cent per generation and in Great Britain to nearly fifteen per cent! [2] In terms of the future, this means that it will take little more than a century for the population of Great Britain to sink to one half of what it is to-day.

In the United States, the most casual reader of the daily press cannot fail to have noticed the frequent references made to the constant fall in the birth-rate. Taking into consideration only the ten-year period from 1920 to 1929 (there are no satisfactory figures before 1915), we find that the rate fell from 23.7 in 1920 to 21.4 in 1925, and that in 1929 it was only 18.9—a drop of 20 per cent in a single decade!

The reader, however, may be misled by the fact that natality and mortality charts still show a substantial excess of births over deaths, and that in spite of the decline in the birth-rate, our population in the same ten years showed an increase of sixteen per cent. This would seem at first glance to be in direct contradiction to the emphatic and startling statement contained in the preceding paragraphs. It is, however, as we shall see, quite possible to have an excess of births over deaths in a population already facing imminent shrinkage. Italy in 1929 had such an excess of 450,000, yet in Italy a genuine downward trend had already set in. The increase of sixteen per cent in the United States during the last decade represents a purely statistical gain that was coincident with a real deficit. The explanation is that the population trend in any country at any time cannot be gaged by a mere comparison of the crude, or uncorrected, birth and death rates. These are figures so dependent upon a variety of influences as to make the correct interpretation of their significance a very difficult task indeed, and one involving the utilization of no inconsiderable technical equipment in the science of statistics. The birth-rate may be accidentally and temporarily stimulated at the same time that the death-rate is similarly retarded, *with the result that a population on the verge of decline is given an appearance of vitality.*

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[2] See the notable volume, "The Balance of Births and Deaths," by Dr. Robert R. Kuczynski of Brookings Institution, Washington, D. C., 1928.

Various factors may contribute to bring this about. In the first place, birth and death rates are affected by the age and sex composition of the population, which is in turn a variable factor. At different times in the history of any country or group of countries, the proportion of women of child-bearing age to the whole population may vary considerably. Evidently, when this proportion is high, that is, when there are more than the usual number of women of child-bearing age in the population, more children will be born, and the *birth*-rate will be higher, not because more children are being born per mother (i.e., a higher *fertility* rate), but simply because there are more mothers. Thus it is quite possible for the *birth*-rate to be high while the real measure of population vitality, the *net reproduction-rate*, that is, the number of daughters born to each woman of child-bearing age and surviving through the child-bearing period, is low, even so low that these women of child-bearing age are not reproducing themselves.

When this central age-group, of which the women of child-bearing age form the female component, is large, one or both of the other two groups, the one comprised of those below fifteen and the other of those above fifty, will be proportionately small. Now it is from these two groups that the death-rate receives its greatest increment. The epidemic diseases that attack childhood, and the deaths from accidents or from constitutional affections of adolescence and early adulthood, make the period from birth to the early twenties a perilous one. In the later years of life the so-called "degenerative diseases" exact heavy toll. But persons between twenty-five and forty-five, for example, tend to survive through middle life and have a reasonable chance of reaching advanced years. Hence, when the central age-group is large, not only do we have an abnormally stimulated birth-rate, but an unduly though temporarily retarded death-rate as well. From the combination results an altogether misleading excess of births over deaths. The theoretical situation just described is precisely exemplified in Europe and the United States to-day. Regarding Europe, I quote again from Kuczynski:[3]

"In the present population of western and northern Europe the proportion of women of child-bearing age is particularly large and the proportion of young children and old persons particularly small." Hence: "(1) The age composition of the population of western and northern Europe tends to lower the number of deaths. (2) The age composition of the population of western and northern Europe tends to swell the number of births."

In the United States the condition is the same. Because of the high birth-rate of a generation ago, the central age-group is now disproportionately large. Because of the recent low birth-rate, the lower age-group is small. The upper age-group, though steadily increasing, is still relatively small. Hence, the birth-rate, low though it is, if corrected so as to take into account the effects of the age-composition of the population would be still lower, while the death-rate would be augmented. Furthermore, when in due time the large central group becomes in turn the upper group, and the accompanying transfer of the small lower one into central position takes place, the birth-rate, now low, will continue to shrink. At the same time the death-rate will begin to rise, as the diseases of old age begin to take a toll corresponding to the increased proportion of people in advanced years. As a matter of fact, a glance at a mortality table will show that the latter process has already commenced; the death-rates of 1928 and 1929 are both higher than that of 1927, when the lowest point on record, 11.4, was reached.

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[3] *Op. cit.*, pp. 55-60.

The death-rate is also artificially and temporarily retarded, and an actually declining population is given a false appearance of vitality by the extension of the expectancy of life. Again, this is what has happened in Europe and the United States. In 1890, every live-born infant in this country and Europe had an expectancy of life of about forty-two years—that is, the probability, on the average, of attaining that age. To-day, an infant has a probability of reaching the age of fifty-nine years. This change is the result, first, of improved prenatal hygiene, better obstetrical practice, and developed technique in meeting the perils of the first days and months of life; and secondly, of medical advance in the field of epidemic diseases, which have been brought materially under control. Where many thousands died four decades ago of typhoid and diphtheria, and where malaria devastated whole regions, now comparatively few fall victims to these diseases.

But the death-rate, though it be lowered still more, cannot be abolished. It is tending to rise in Europe and in North America, and the expectation prevails in some authoritative quarters that we have seen the last of low death-rates for years to come. But no matter what happens in this regard—the conquest of nephritis, diabetes, cancer, and even of the cardiac diseases, even the extension of the average length of life to seventy, to eighty, to ninety years—in the last analysis the situation will not change! Since salvage over fifty years of age has no direct bearing on reproduction, any further advance can provide us with a surplus of births over deaths only while the actual process of extending this average continues.

By way of illustration: Suppose that a machine age should produce a community where births and deaths were regulated with the exactitude of a time-clock. Suppose that in this community there were just 10,000 people; that 2,500 of these were women of child-bearing age; and that these women together would bear children to the number, for the sake of example, of 200 each year. Let us suppose, finally, that each year 200 others, coming to the age of fifty, would die. Obviously, the population of the community would remain constant at 10,000. But now suppose that the expectancy of life were suddenly raised from fifty to sixty, but that no corresponding extension of the child-bearing period were made. For ten years there would still be 200 births a year, but no deaths, with the result that the population during that period would increase to 12,000. But at the end of that period, the increase would cease. The fact that the expectancy of life was now sixty instead of fifty would cause no further increase, and if other factors were to operate to lower the birth-rate the population would decrease just as quickly as though the expectancy of life had never been advanced.

The validity of this contention and of the purely supposititious illustration accompanying it is not affected by the fact that increased expectancy of life is partially accounted for by salvage from the diseases of infancy and adolescence. In the first place, it is probable that no further considerable advance can be made in this direction. Secondly, no matter how great this salvage, infants cannot be preserved through these early years of peril unless they are first born! Even if infant and adolescent mortality were *abolished*, the two-child family, now so nearly approached in this country and much of Europe, would mean a declining population.

So in northern and western Europe and in the United States to-day, the population does show an increase, but it has been largely effected by this advance in the expectancy of life, and by the preponderance of the reproductive age-group in the population. *But neither of these factors has a decisive bearing on the true vitality* of the population.

How, then, is the true vitality of a population to be determined? Let us take a simple but pertinent example. Suppose that there are in a completely isolated community fifty families, each of them decidedly prolific, producing many children, but predominantly male. The birth-rate would be high and the population would increase, yet since the women of the community were not replacing themselves, or to put it another way, since the women of the present generation were not bequeathing to the next generation an equal number of women who would in turn bear children, the community would be doomed to extinction. The continuance of any population, therefore, evidently depends upon the *successive replacement of its women*, and its true vitality may be measured *by the degree to which this is occurring*.

If a population is to remain merely stationary, therefore, each thousand women of this generation must bequeath a thousand other women to the succeeding generation. Evidently, this condition will not be verified if each thousand women of child-bearing age have just one thousand daughters but no more; this would make no allowance for infant mortality, the diseases of childhood and adolescence, and all the other factors that combine to prevent a certain percentage of those born from actually reaching the child-bearing age, or from rearing families. Statisticians, notably Kuczynski [4] and Johannes Rahts [5] for Europe, and Dublin and Lotka for the United States,[6] have made elaborate calculations along these lines, and have reached this significant conclusion:

*In all northern and western Europe and in the United States the women of child-bearing age are not reproducing themselves.*

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[4] *Op. cit.*

[5] Formerly chief of the population division of the German Statistical Office. See "Statistik des Deutschen Reichs," Vol. 246, p. 18.

[6] See "Journal of the American Statistical Association," September, 1925, Vol. XX, p. 309; also "Metron," June, 1930, Vol. VIII, No. 4, pp. 107-19.

The following figures tell the tale: (1) In Denmark in 1926, the female fertility-rate was such that each 1,000 women of child-bearing age would during the course of their lives bear 1,270 live-born female children, 1,097 (1,030 in 1927) of whom would in turn survive through the child-bearing period. In Denmark, therefore, in 1926 the population was very slightly more than replacing itself. (2) In Sweden in 1926, the two corresponding figures were 1,430 and 1,090 (figure for 1927 not available). (3) In France in 1926, each 1,000 women of child-bearing age would bear only 1,159 daughters, of whom but 937 (910 in 1927) would survive, a deficit of 63. (4) In Germany, the gross figure was 1,070, and the net, 890 (830 in 1927), a deficit of 110. (5) England and Wales, with a gross of 1,050 and a net of 880 (820 in 1927), show a deficit of 120.

Dr. Kuczynski concludes: "According, therefore, to the fertility and mortality in western and northern Europe in 1926, 1,000 mothers gave birth to 930 future mothers only. *With the fertility of 1926 the population is bound to die out* unless the mortality of potential mothers decreases beyond reasonable expectations. *And fertility continued its downward path in 1927.*"[7] (Italics ours.)

A similar study of the United States by Dr. Kuczynski[8] shows a comparable condition. In 1926 a deficit in the number of females necessary for a stationary population already existed in almost half the States, and only their large colored population, with its high birth-rate, kept many of the Southern States from swelling the deficit column. In New York each 1,000 women were giving birth to but 1,090 daughters, *of whom less than 900 would survive through child-bearing age.*

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[7] *Op. cit.*, p. 54.

[8] Kuczynski, "Births," Encyclopedia of the Social Sciences, Vol. II, New York, Macmillan Company, 1930, pp. 568-72.

As far as computable, the gross rate for the entire country was 1.22 female children per mother, to which would probably correspond a net or survival rate of exactly 1.0. The national average, then, in 1926, which includes the very high birth-rate of the colored population in the South and that of recent immigrants, was barely sufficient to insure enough mothers in the next generation to keep the population in equilibrium. Since 1926, the birth-rate has continued its rapid fall and the death-rate has started an upward climb. Moreover, from all appearances immigration will in the future have a negligible bearing on the situation.

Virtually the same conclusion may be arrived at in another way. Statisticians, making allowances for infant, adolescent, and adult mortality, sterility, deferment of marriage, and celibacy, have calculated that an average of approximately 330 children must be born to every 100 fathers and mothers in order that 100 other fathers and mothers may be available and in turn produce children a generation later, thus keeping the population merely stationary. The actual rate for this country, based on the census of 1930, has not yet been computed. Some years ago, it was believed to be about 250 children for each 100 mothers; it is now (1931) probably not more than 220, in view of the sharp drop in the birth-rate in each of the recent years. At all events, it is far below the number required to keep the population in equilibrium, and were it not for the immigration which poured into this country for so long prior to the war, we would to-day already have a stationary population and be facing a decline in the very near future. As it is, we can hardly go on increasing for as much as two decades at the outside. At a conservative computation we shall have reached our maximum population—approximately 140,000,000—by the year 1944 or 1945. After that will come perhaps two decades of stationary population, and then decline.

Later chapters will indicate some of the disastrous effects of a declining population upon the life of a nation.

## CHAPTER XII

# IS THE WORLD'S CUPBOARD BARE?

DISREGARDING for the time any impending decrease in the number of human beings, let us take brief stock of the supply of food which the world is capable of producing.

On every side, at the present time, is heard the cry of *overproduction*. Shall the United States scrap $200,000,000 worth of wheat? Newspapers of the United States on April 21 of the current year (1931), under large head-lines, carried the announcement that the Farm Board had decided to sell in the European market the huge surplus of wheat acquired under its stabilization operations. It has been estimated, says the "New York Times" account, that the grain controlled by the board will be about 275,000,000 bushels by July 1. "Such a policy," continues the "Times," "is contrary to the views of Western senators and farm leaders who have been insistent that the Board lock up the wheat and throw away the key." In passing, it might be added that the government purchases were made at an average of $.92 a bushel, but estimates have been made that the Board may suffer a loss as high as fifty per cent in sales made in Europe at the present time.

This news item is an interesting commentary on the contention that the world is rapidly approaching its saturation point as regards the possibility of feeding its inhabitants; or that at least the feeding of the present population becomes more difficult with each increase. As a matter of fact, the situation behind this news report has been one of the considerations involving the rejection of both the theories described above by practically all economists of note to-day. Briefly, it may be stated that there are no data to substantiate either the theory of absolute overpopulation or that of relative overpopulation as stated in the so-called "law of diminishing returns." Secondly, such experience as has been collated and analyzed points to quite the opposite conclusion, namely, that the relationship between population growth and agricultural production must be formulated in terms of increasing, not decreasing, returns.

A brief analysis of the facts pertinent to the discussion should be sufficient to demonstrate the truth of this statement. The position in which the Federal Farm Board found itself at the close of 1930 is indeed a case in point. As an emergency measure to stave off complete disaster, the Federal Farm Board purchased, at a rate far above market value, vast quantities of wheat for which there was no demand in the open market. The Board is now in the unenviable situation of having to choose between the disposition of the wheat at a tremendous loss—

coupled with the almost inevitable further decline in world-prices and perhaps retributive legislative measures abroad—or, as has been advocated in some quarters, the complete abandonment of the whole stock. This situation has influenced the Board to urge the farmers continually to curtail their acreage. Alexander Legge, who recently retired as chairman, declared that a reduction by twenty per cent would be necessary.

Furthermore, at the very time when the Farm Board was wrestling with its own problem, a world grain-parley was being held in Rome, delegates being assembled from forty-six countries to discuss ways and means of reducing the world's wheat-acreage.

The wheat situation here in the United States and throughout the world can hardly be considered as lending support to any theory of absolute or relative overpopulation. Nor would there seem to be other facts to justify such concern. From the point of view of food supply, the limit of population for the United States, for example, cannot be anything but a matter of conjecture, all indications being quite the reverse of the neo-Malthusian picture.

Further basis for the rejection of the theory of diminishing returns is furnished in a recent report based on a study of the United States census. In 1880, 44 per cent of the population of the United States lived on farms. In 1890 this percentage had fallen to 39, in 1900 it was 38.8, in 1910, 34.2, and in 1920, 29.8. Analysis of the 1930 census will show it to be about 24. In forty years, therefore, there was a decline in the farm population of the United States of 14.2 per cent. Again, from 1925 to 1929 alone, there was a decline of 76,700 in the number of farms and a shrinkage in farm land of 31,000,000 acres. Yet during this same period agricultural production increased. So striking has been this development that Warren S. Thompson, who in 1915 had declared that "the United States is rapidly approaching the point where it will not be a self-supporting nation," now has come to the antithetical conclusion that "so far as we in the United States are concerned, the problem of providing ourselves with agricultural products does not appear likely to become serious within the predictable future."[1]

It is true that Thompson specifically limits his statement to the United States. But Thompson's original statement also refers only to the United States and predicts for that nation the rapid approach to the saturation point. In this respect at least, therefore, it is evident that neo-Malthusian calculations are undergoing some recasting, for Thompson has been one of the most renowned advocates of birth-prevention. His own frank admission should go far to hasten a larger recognition of the now palpable incorrectness of conclusions as to population.

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[1] Warren S. Thompson, "Population: A Study of Malthusianism," edited by the faculty of political science of Columbia University, Columbia University Press, 1915, Vol. 63, No. 3, p. 115. Also, "Population Problems," 1st edition, McGraw-Hill Company, New York, 1930, pp. 257-58.

Let us inquire a little further into the situation. Land and its fertility are still the determining factors in the production of human sustenance. Even so, it is reasonable to suppose that this country could provide food for a population of 1,000,000,000 just as easily as for 500,000,000. In 1919, only 365,000,000 acres of land were devoted to the production of food that was either consumed by our own population or exported.[2] There remain 608,000,000 acres that can be utilized for the production of food.[3] The supposition that an acre can eventually provide for one person's food requirements is not an exaggerated contention. Japan is doing that today under agricultural methods that are certainly not the best and which may be greatly improved. This indicates that our 973,000,000 acres of available crop land may be made to produce the food necessary for a corresponding number of inhabitants. Nor does this estimate presuppose a revolution of agricultural methods.

Taking into account only that land which was under cultivation in 1919, we see that a much larger population could be maintained than might ordinarily be presumed on the basis of present scientific knowledge and per capita crop land requirements. Of the 365,000,000 acres devoted to crops in 1919, 39,500,000 acres were used to produce crops for export and 78,200,000 were devoted to producing feed for horses and mules.[4] If exports were curtailed (at the present it is not a question of reducing our food-exports, but rather a most pressing one of finding additional world-markets for the surplus that our farmers cannot market in our own country!), and if mechanical power were substituted for animal power, this land could be released in large measure for a direct production of food for the population of this country. Were these changes no more than three-quarters effected, over 88,000,000 acres would be available for the production of food for our population. Counting as much as two acres per person, the acres thus released would provide for some 44,000,000 over and above the 105,000,000 so amply supported from the 365,000,000 acres cultivated in 1919.

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[2] L. C. Gray, O. E. Baker, and others, "The Utilization of Our Land for Crops, Pasture and Forests," United States Department of Agriculture, "Agriculture Year Book," 1925, p. 416.

[3] *Ibid.*, p. 431.

In addition to these, other changes will obviously take place which will allow for a larger population. The selection of live stock more efficient in the conversion of feed into food, may within a comparatively short time result in a twenty per cent increase in animal product per acre. This is conservative when compared with the fact that from 1919 to 1926 there was a nine per cent increase in the production of beef and veal.[5] When this change is applied to the 166,700,000 acres utilized for animal feed in 1919, the additional production would support at least 16,000,000 persons.

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[4] L. C. Gray *et al.*, *op. cit.*, p. 458.

[5] O. E. Baker, "Do We Need More Farm Land?" Address before the Agricultural Extension Conference, University of Minnesota, December, 1928, United States Department of Agriculture.

The increase in yields per acre by substituting more productive crops for less productive and the use of fertilizer and crop-rotation might easily account for a fifty per cent increase in production. If, however, only a fifth of these were to be accomplished within a reasonably short time, provision for at least 18,000,000 more people would be made from the 365,000,000 acres under cultivation in 1919.

Changes in the consumption habits of the people, better methods of marketing and storage and elimination of waste, would result in a further saving of land. Peterson believes that savings on this score would provide food for 10,000,000 people.[6] We may then summarize our results:[7]

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[6] George M. Peterson, "What about the Year 2000?" prepared under the direction of Joint Committee on Bases of Sound Land Policy, Harrisburg, Penn.; Mount Pleasant Press, 1929, p. 124. Also see "The Land: Conservation of Our Natural Resources," based on Van Hise's "The Conservation of Natural Resources in the United States," edited by Loomis Havemeyer, New York, Macmillan Company, 1930, pp. 347-56. Also see John D. Black, "Agricultural Reform in the United States," 1st edition, New York, McGraw-Hill Company, 1929, pp. 392-93.

[7] The figures of this table have been calculated according to Peterson's method and principles except that 2 acres instead of 2.13 have been taken as sufficient to provide for one person.

| | |
|---|---|
| Population, 1919 | 105,000,000 |
| Increases in population which may be effected by | |
| Shifts to mechanical power | 29,300,000 |
| Shifts in exports | 14,800,000 |
| Changes in animal efficiency | 16,000,000 |
| Changes in crop production | 18,000,000 |
| Changes in diet and elimination of waste | 10,000,000 |
| Total | 193,100,000 |

Even, therefore, with little or no advancement in present scientific knowledge, practically no change in dietary standards, and without regard to the full benefits that may accrue from improvements in farm machinery and in agricultural organization on a basis comparable with that of industry, the 365,000,000 acres cultivated for crops in 1919 could care for the food requirements of nearly 90,000,000 more inhabitants than are now being provided for.

Let emphasis again be laid on the fact that in the calculation above no consideration is taken of any agricultural methods not at the present time in more or less general use. No allowance is made for highly intensive cultivation, which is a perfectly normal development in the science of agriculture. Add to these the potentialities of the remaining 600,000,000 acres of our available but unused crop land and it must be immediately evident that there is no need for worry over a food-shortage in this country such as that at least formerly predicted by adherents of neo-Malthusianism. As a matter of fact, the situation in the United States is not that "population is pressing upon the food supply, but that food is pressing upon the population." Apply the process above to the whole world and, even without the help of a single scientific process not now known and accepted, the planet is capable of supporting a population measurable only in astronomical terms.

Even when the potentialities of land for food production have been exhausted, there still remains the possibility of synthetic food. This is by no means a wild fancy. Its feasibility has been clearly explained by Carl L. Alsberg of the Food Research Institute of the University of California. According to Dr. Alsberg, the principal groups of food elements—carbohydrates, proteins, fats—at the present time can be manufactured in the laboratory either in the form in which they are ingested by the animal or in that form into which they are finally broken down for assimilation. It is known that carbohydrates in the digestive process are broken down into simple sugars and fats, and these can be produced synthetically. Similarly, the glycerol and fatty acids that are derived from proteins are producible by artificial means.[8]

With this much already accomplished, the difficulty remaining for science to solve is the source of the energy that, as the primary element of foodstuffs, must be placed in synthetic foods. Dr. Alsberg's weighing of the facts leads him to believe that it is "by no means hopeless for the chemist to expect ultimately to develop processes for the storage of solar radiation that will be far more efficient than the net result of agriculture. . . . In view of the great progress in photo-chemical theory in the last decade, the problem is far from hopeless." [9] When this is accomplished—and Alsberg says that "the solution may be nearer than most men think"—all discussion of future world population, as far as any question of food-shortage is concerned, becomes an abstract exercise in pure mathematics.

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[8] Alsberg, "Progress in Chemistry and the Theory of Population," in "Industrial Chemistry," May, 1924, Vol. X, No. 5, pp. 524, 526.

Finally, the greatest of caution must be used in evaluating arguments sometimes drawn by neo-Malthusian theorists from conditions in China, Java, India, and other regions. Discerning investigation of the history, traditions, and institutions of these countries goes far in eliminating population as the principal cause of their depressed state. Primitive methods of cultivation, the lack of transportation facilities, failure to utilize power-resources, and protracted periods of internal strife, all evidently contribute to the distress of so large a proportion of these populations. Moreover, it is frequently implied that China's last acre of tillable soil is in use. This is not the case. Perhaps not more than a quarter or a third of the cultivable land of China is utilized in agriculture, more than 500,000,000 acres being still available.[10]

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[9] *Ibid.*, p. 526.

[10] O. E. Baker, "Land Utilization in China," "Problems of the Pacific," University of Chicago Press, 1928, p. 333ff.

Since not alone by food does man live, a final word may be added concerning some of the other factors necessary or important to his existence. Not many years ago grave concern was expressed over an imminent shortage of nitrogen in the world. Even the great deposits in Chile were looked upon as inadequate for any length of time. Since then, however, science has apparently solved the problem for all time. The great development in nitrogen-fixation by electricity in Germany has been so successful that the nitrate industry of Chile has already been seriously affected. Van Hise is authority for the statement that "The advance of science has solved the nitrogen problem." [11] The supply of potassium need cause no anxiety. The Stassfurt fields in Germany contain enough potash to last the world two thousand years at the present rate of consumption. Russia has deposits as large as and perhaps larger than those of Germany. In this country it is believed that the deposits in Texas and New Mexico exceed those in the Stassfurt fields.

As for phosphorus, Wehrwein observes that "the physical supply of phosphate in the United States is almost inexhaustible, although the location of these reserves with respect to centers of consumption at present is unfortunate. . . . The problem of obtaining cheap fertilizer from this enormous physical supply depends upon the costs of sulphuric acid, power and the cost of transport."[12] It is, besides, conceivable that science will solve the problem of costs that may be involved in procuring future supplies of phosphates, as it has in the case of nitrogen. Predictions that agriculture will be carried on under conditions of increasing costs, because of the scarcity of materials for fertilizers, appear to be quite unwarranted.

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[11] Quoted by George S. Wehrwein, "The Land, Conservation of Our Natural Resources," edited by Loomis Havemeyer, Macmillan Company, New York, 1930, p. 380.

Metallic resources need cause no anxiety. Moreover, the life of those now available may be prolonged indefinitely by the substitution of non-metallic substances, the supplies of which are almost inexhaustible. The past few years, for example, have witnessed a marked increase in the substitution of cement for steel, representing a great saving of both coal and iron. The extent to which the more plentiful non-metallic substances can replace the use of metals, may go far beyond present expectations. An important substitute for the more resistant metals during recent years is aluminum. Its ascertained deposits in the earth's crust are very great. The cost of production of aluminum was originally high, $10.55 per pound in 1883, but more scientific processes of extraction and manufacture have brought it to $.25 in 1930.

Perhaps the most important aspect of the whole problem of resources is that of energy. The coal-supply of this country, from which the large part of our power is furnished, is sufficient to last three thousand five hundred years at the present rate of consumption. Nothing definite is known about our vast petroleum reserves. As regards water-power, which furnishes only about five per cent of the energy now consumed by the people of the United States, the present 11,000,000 horse-power may be increased ultimately to around 60,000,000.

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[12] *Op. cit.*, p. 382.

Moreover, science, with many hundreds of years in which to work before the immediately available resources are exhausted, has already gone far in solving the problems involved in gaining energy from the sun, the ocean, the wind, and the forces of gravitation.

No doubt need be felt as to the capacity of the world to support a growing family. Nature has been a bountiful and far-seeing provider.

## CHAPTER XIII

# THE OPTIMUM FANTASY

IS there a point where either an increase or a decrease of population would be economically unsound? Can it be, therefore, that there is such a thing as a population of the best possible size? We are told that such is the case.

Those of the neo-Malthusians who recognize the invalidity of the so-called "law of secular diminishing returns," and who realize that the supposed trend toward absolute overpopulation has no basis in fact, have sought refuge in what is termed the "optimum" concept of population as a theory to justify a policy of population restriction.

Accordingly, recent literature in the field of population has progressed beyond the belief in secular diminishing returns characterized by Professor Davenport as that "brutal fact, full of bad omens and sad prophecies," and it has been realized, as Carr-Saunders observes, that "increase in skill has brought to an increasingly dense population a larger income per head." This view, however, will not be less conducive to a policy for the restriction of births. On the contrary, the acceptance of a theory of an optimum population necessarily involves as a fundamental part of the theory the advocacy of a policy of artificial birth-prevention.

The optimum theory is noted in discussions by J. S. Mill, Harold Wright, and others, particularly Henry Sidgwick in his "Principles of Political Economy." It perhaps has been most succinctly phrased by Edwin Cannan in his work entitled "A Review of Economic Theory." To quote from Cannan, the theory supposes that there is a point "when the population is so exactly fitted to the circumstances that returns would be diminished if it were less or more than it is. This population has been christened the 'optimum' population."

Before entering into a criticism of the theory as such, attention should be called to the decided change that the meaning of the term "overpopulation" has undergone. It is a far cry from overpopulation in the sense of a number of people actually too great for the food resources of the world, to overpopulation in the sense in which the term is used in relation to the optimum theory. Hugh Dalton, in this connection, defines overpopulation by the statement that it "implies an income per head smaller than would have been realized if numbers had been less." Or, as Lionel Robbins says: "An area is overpopulated when total returns per head are less than they would be if the population were a little smaller, and this is a point which may be reached long before there is any question of pressure on the means of subsistence. Theoretically it is possible to imagine a community, all of whose members enjoyed the standard of living of millionaires, which was yet overpopulated in the economic sense. If the elimination of one millionaire would increase returns per head to the efforts of the others, overpopulation would be present."

Although this theory is still in the early stages of its development and is surrounded by a great deal of vagueness, it has already been seized upon as justification for the reduction of the birth-rate as a national policy. Its proponents leap from the acceptance of the theory itself to a dual assumption utterly unwarranted thereby; namely, that the optimum population has already been reached, and that contraception is a means of insuring its maintenance.

On practical grounds the validity of this reasoning is open to question. In the first place, an optimum population is incapable of calculation. In the second place, population will not respond to a stop-and-go signal like a stream of traffic at a street intersection. And finally, even were we to prescind from the two preceding considerations, either one of which relegates the optimum to the limbo of intriguing but unworkable theories, there is a third objection: By it *"standard of living" is set up as the primary purpose of human existence, and "per capita income" as the ultimate criterion of happiness*. It is, as A. B. Wolfe says, a "frankly utilitarian" and purely material and mechanistic concept, eliminating from consideration all other aspects of life.

The practical difficulties in the way of the workability of the theory of the optimum become evident upon but little consideration. It has been suggested that a national commission of experts be appointed to do two things: (1) to calculate the optimum, and (2) having done this, to devise means whereby such an optimum be maintained. This is indeed a proposal in keeping with our present national policy of solving difficulties—but no commission ever appointed would have a less enviable task! It will be remembered that, in the words of Robbins, "the optimum is not a fodder optimum"; the maximum return or income involved in the concept refers not to agriculture alone but *to industry in the aggregate.* Consequently the calculation of an optimum would call for the computation of the average returns for each agricultural *and industrial* unit in the country, a preposterous undertaking in itself. After accomplishing this, it would be necessary to calculate a composite series of average returns that would consolidate the findings with respect to the innumerable individual units. It would be scarcely possible to exaggerate the technical difficulties involved in this task, difficulties which evidently so troubled Cannan in his explanation of the optimum that he simply sidestepped the issue with the words, "If we *suppose* all difficulties about the measurement of the returns to all industries taken together to be *somehow* overcome. . . ."[1] (Italics ours.)

But prescinding for the moment from the discussion of the question as to how an optimum figure is to be calculated, what methods are to be adopted to secure and maintain the optimum once it is known? The immediate reply of the neo-Malthusian is, of course, the prevention of births. But this is not an adequate answer. An optimum supposes that birth-rates must not fall below nor rise above a certain point. There would indeed appear to be little difficulty on the latter score. A birth-rate that drops during one decade (1920-1929) by a fifth (23.7 to 18.9) should certainly allay all anxiety on this point. But it must be remembered that the optimum concept admits of under- as well as over-population.

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[1] Cannan, "Wealth; A Brief Explanation of the Causes of Economic Welfare," London, P. S. King & Son, 1914, p. 69.

What would happen if the situation arose—as well it may—when a rising birth-rate was needed to restore the balance? Are the proponents of this theory so utterly naïve as to suppose that a simple announcement to that effect from our optimum commission would be sufficient to change the established habit of a nation? Scarcely! Once train a people in the practice of contraception, once start a population on the downward path, and it will take far more than a mere proclamation of need to tie up again the devastating forces that have been loosed!

The third point on which the concept of the optimum must evidently fail is that it is purely material. It places income per capita as the ultimate gage or standard of human well-being. But as Hobson well points out: "Family affection and the interests and activities attached to it play an important part in most men's lives, and as they grow older this attachment to a younger and more active generation that is near and dear to them goes far to maintain the zest and savor of life. A childless or a one-child marriage incurs the risk of an old age of emotional poverty that is likely to be underestimated in the prime of life. A larger family circle is, in spite of all that cynics say, a better school of character and of experience than a small one, and furnishes more fruitful contacts with wider ranges of society."

The whole human race might well be cited in further and final rejection of any theory enthroning material wealth as the essential component and ultimate measure of happiness. A world so motivated would be lost to all the high urgings of the spirit. Art, literature, culture, would be ruled out as wasteful scattering of energy. The sanctions of eternity would be non-existent for it; evaluation of perishable things in the light shed by consciousness of an imperishable destiny would be a contradiction in terms; justice and charity would be relics of an age of sentiment and superstition; self-sacrifice would be an insoluble anachronism in a society living, breathing, existing, for self alone. The "Lady Poverty" of the sage of Assisi would be a mad figment of a disordered imagination.

Incapable of both calculation and application, a material measuring-rod for a world in which the spirit cannot be denied—as such the optimum theory of population must be rejected.

## CHAPTER XIV

# THE CONTRACEPTION OF CONSUMERS AND OF PROSPERITY

SO after all, it appears that we need not worry about overpopulation. We can be relieved to know that, from all appearances, there will be plenty of food for all of us and for our children's children. The fact is that our population is destined to decrease, not increase, and it is upon this score and not because of the operation of imperfectly ascertained and not thoroughly understood laws of diminishing returns that we may be justly apprehensive of the future.

But why, it may be asked, should we be concerned because of a decreasing population? Would not this be a very healthy situation? Is it not evident that we have at this very time—not only in the United States but throughout a large portion of the world—an excess of population, in the sense that we have more workers than there is work? Would not a substantial decrease in our population be a decided contribution to the solution of the acute problem of unemployment?

To industrial leaders, who realize the interdependence of widening markets and increasing consumers, the answer to these questions is already known, and their significance is understood. Unemployment is not to be explained in terms of overpopulation, nor is population restriction its solution.

The prosperity the United States enjoyed up to the end of the third decade of this century was founded on a steady increase in population; the recapture and projection into the future of this prosperity depend upon the existence of a constant even though very small coefficient of continued increase; a stable or declining population cannot but result in a complete and painful readjustment of our entire economic and industrial system, accompanied by declining prices, falling wages, and increased chronic unemployment. In fact, it may well be that no small proportion of the present economic *malaise* is attributable to the slowing-up in the rate of increase in the number of consumers, and the rapid rearrangement in the age-composition of our population that has been going on for a long time. Perhaps it is that we are feeling the jar of this slowing-up process just as we do when the brakes of a fast-moving train are suddenly set.

In the mind of the bulk of the population, unemployment is nothing but an excess of job-hunters over jobs. Remove this excess by reducing the number of job-hunters, says neo-Malthusian economic theory, and the problem is solved. This happy fantasy is surrounded with a pleasing aura of plausibility. But no such simple formula will suffice. As Robbins points out: "It is very seldom that there is a slump in the labor market without the cry of overpopulation being raised. In its crude form, of course, this view is quite inadmissible. As Sir William Beveridge has shown, unemployment is normally to be regarded as a by-product of industrial change and maladjustment. It is not to be regarded as a function of long-run productivity. Clearly the popular view which attributes any and every appearance of unemployment to overpopulation . . . deserves nothing but contempt."[1]

Even the neo-Malthusian, A. M. Carr-Saunders, recognizes the unsoundness of the explanation of unemployment in terms of overpopulation. "It may be observed," he says, "that the phenomenon of unemployment as generally seen in industrial countries is not evidence of overpopulation. . . . It is due to certain maladjustments in the industrial system, such as the decay of industries, the seasonal and cyclical fluctuations of trade, and the position as to the normal reserve of labor."[2]

The German statistician to whom we have already referred more than once, Dr. Robert R. Kuczynski, is even more emphatic. In an address delivered at the thirty-fourth annual meeting of the American Academy of Political and Social Science, he made this statement: "I even venture to say that if one set out to *increase* unemployment in this country for the next fifteen years he could find no more efficient means than birth-restriction on a very large scale."[3]

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[1] Lionel Robbins, "The Optimum Theory of Population," pp. 125-26.

[2] Carr-Saunders, "The Population Problem: A Study in Human Evolution," Oxford, Clarendon Press, 1922, p. 312.

The last century and a half has witnessed an astonishing industrial and economic development in the United States. This movement has been accompanied by a constant rise in the level of real wages and a steady advance in the standard and scale of living. So accustomed have we become to this robust and healthy growth that, in spite of occasional attacks of acute economic indigestion, we complacently regard our constantly increasing wealth and prosperity as due to some inherent superiority over other peoples, enabling us the better to mobilize natural resources, favorable climate, and accessibility to the sea in the erection of a mighty economic structure. But no such inherent superiority exists: *the primary explanation of the phenomenon loosely described as the prosperity of the United States lies in the constant expansion of its consuming market.*

Let us review dispassionately the events leading to our economic and industrial eminence. Our initial Colonial population consisted for the most part of European adults. A high birth-rate prevailed among them, and, because of the absence of a great number of people of advanced years, there was a relatively low death-rate throughout almost the entire Colonial period. The consequent and considerable excess of births over deaths resulted in a steady and rapid natural growth in population, a growth that has continued up to the present day, although it has slowed down considerably and will soon cease entirely. The disturbed conditions in Europe, and the almost privileged position in regard to commercial, industrial, and agricultural expansion that the young republic came to occupy soon after the establishment of its independence, resulted in a steady increase in its population from another source, also—immigration.

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[3] "Population Growth and Economic Pressure," "Annals of the American Academy of Political and Social Sciences," July, 1930, p. 2.

In proportion to this rapid twofold increase of population, by natural growth and by immigration, there resulted a rising spiral in land values, and a stimulation to every sort of production, whether of goods or of services. Prices became higher, real wages steadily advanced, and the scale of living rose. But there was nothing inherently brilliant in this high-price, high-wage, mass-production set-up. Our almost inexhaustible natural resources (said with due regard for neo-Malthusian animadversions on this point) did indeed play an important part, but essentially it is to the constantly growing population, the automatic augmentation of the number of consumers, that our national wealth of to-day is due. (The bearing on this discussion of the so-called "law of diminishing returns," and of the neo-Malthusian concept of the "optimum" population, has been discussed in earlier chapters.)

This much, then, is evident: The astonishing economic development of the United States has been the direct result of a steady and rapid increase in population. We may now go a step further: A future stationary and then declining population will not only render impossible the continuation of this development, but will result in the loss of much that has been achieved.

It is at this point that Average Citizen may take special note. He may have been interested and probably surprised, but not particularly concerned, to learn that a decline in reproduction has already set in throughout much of the world with which he is most familiar. He may not even have realized the full implications involved in the rise of American industry upon the basis of a constantly expanding market. He wants to know how all these things concern *him*. He is not interested in cosmic trends; to him it is the economic security and prosperity of his own family group that are of vital importance.

His quite pertinent question may be briefly but not at all reassuringly answered: A declining or even a stationary population will be most prejudicial *not merely to national prosperity but to his own individual and personal financial status*. Dr. Kuczynski states the case well: "How is it possible," he says, "that fewer children would not mean a general economic relief when we see in daily life that those who have only, say, one child can afford a better living than those who have three or more children? My answer to this question is very simple. Mr. Smith, the real estate agent, is economically better off with one child than with more children *as long as other people have more children*. But if the rest of the community should have one child per family, Mr.

Smith would starve because there would be practically no demand for new buildings. A man may live comfortably from a business which mainly depends on the increase of population even if he does not himself contribute to that increase. But he can do this only as long as others do not follow his example."[4]

Dr. Kuczynski's selection of the field of real estate to point his principle may perhaps not be entirely fortuitous. A group of leading realtors of the City of New York met recently to discuss the situation. A two-year moratorium in building for commercial purposes is under serious consideration *because production in this field already exceeds demand.* If it were brought home to this group that by reason of a declining population future demand would grow less and less, what would be the result in terms of value, rent, and future construction?

What, after all, is the ultimate determinant of land value? If it is a question of land to be developed for commercial use, does it not in the last analysis rest upon a calculation of the number of people who may be expected to pass a given point or to desire headquarters in the center of a given area? If there is reason for assuming that this number will increase, the desirability of the location will be enhanced, and its value will increase. If, on the other hand, it appears probable that a constantly decreasing stream of potential customers will pass by, the prudent investor will think and think again before he ties up his capital or spends his surplus in a venture whose future offers no prospect of even a small yield, to say nothing of security. *But predictable population decline, now uncomfortably near in the United States, spells just this situation on a national scale.*

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[4] "Population Growth and Economic Pressure," p. 2.

Average Citizen may have one or more of several relationships to the property in question. In all cases, however, he is the loser, for value is always discounted in terms of future demand. He may have owned the property—he must sell at a loss, absolute or relative. He may have been a real estate agent—and found the making of a sale more difficult and his commission smaller. He may have erected a building upon the site—the absence of yields from his investment will reflect its low market value. Or he may have opened a store on the corner—and find his customers day by day decreasing in number. Or Average Citizen may be in one of the building trades. He may be anything from architect or general contractor to humble artisan. But in any event, a decline in the need for space so considerable as to result in the abandonment of the plan to build would be disastrous for him. Yet such is the situation that will result from a declining population.

Let us transfer our attention to an entirely different field. There are approximately 8,000,000 "average citizens" in the United States who are engaged in agriculture. "The plight of the American farmers consists in that they produce much more than the 120,000,000 inhabitants of the United

States can possibly consume. They find, of course, a partial outlet by selling abroad, but food exports are becoming more and more difficult on account of the large number of food exporting countries all over the world, and competition probably will become even more severe when Russia again emerges as an exporter of grain and when the population of western and northern Europe ceases to grow. . . . He [the American farmer] will indeed find no cure for his trouble in a stationary or decreasing population."[5]

With this view Dr. O. E. Baker of the United States Department of Agriculture emphatically agrees. "A stationary population," he wrote recently, "would have serious consequences for the American farmer, whose production has increased probably over 50 per cent in the last ten years. . . . A decreasing population would be a calamity, if present conditions of production persisted and larger markets were not found." (Parenthetically, attention may be recalled to Dr. Kuczynski's opinion, quoted above, on the probability of extending our markets by exporting our surplus products!) Dr. Baker continues: "Farm land values doubtless would decline almost everywhere, farms would be abandoned more extensively than at present (again parenthetically, from 1925 to 1929 alone there was a decline of 76,700 in the number of farms), taxes on the remaining land in the less fertile farming areas would rise and force the abandonment of still more farms, the maintenance of schools and roads would become increasingly difficult in these localities."[6]

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[5] "Population Growth and Economic Pressure," p. 5.

Startling confirmation of this statement is given by the Federal Farm Board in the announcement that was referred to in Chapter XII, of the enforced cessation of its emergency stabilization-operations. It is estimated that the Grain Stabilization Corporation now has in storage more than 100,000,000 bushels of wheat and in addition holds a substantial—perhaps an equal—amount in futures. A recent estimate by Chairman Stone of the Board placed this year's carry-over in excess of 300,000,000 bushels. To remove this surplus and make the American price independent of the lower world level, the Board has continually urged the farmers to curtail their acreage. As has already been said, Alexander Legge, who recently retired as chairman, declared that a reduction by twenty per cent would be necessary.

Perhaps the agricultural problem is the most acute of the many confronting the United States to-day —in the light of the facts just stated the neo-Malthusian prescription merely adds insult to injury.

One might traverse the whole field of industry if it were necessary to pile up examples. Population restrictionists frequently base their conclusions on the "subsistence-wage theory" (also known as the "iron law of wages") or the "wage-fund theory," both of which postulate a decrease in per capita real income for every population increase. Yet the elaborate calculations of H. Paul Douglass indicate that "the employed workers in American industry as a whole were economically 53 per cent better off in 1926 than during the decade 1890-1899."[7] A. H. Hansen calculated that real wages in this country were three times better off in 1923 than in 1820.[8] Studies by the United States Bureau of Labor Statistics and the National Bureau of Economic Research substantiate these conclusions, leaving no shadow of question that increase in real wages has gone hand in hand with growth of population.

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[6] O. E. Baker, "Overproduction in Agriculture," in "The Menace of Overproduction: Its Causes, Extent, and Cure," edited by Scoville Hamlin, New York, John Wiley & Sons, 1930, p. 57.

How different a picture of the future may be drawn of a society held fast in the throes of a decline of population! With the remorseless if gradual contraction of the consuming market, margins of profit will steadily decline in the great bulk of industries and commercial centers. Steady shrinkage will take place in building operations, but this will not arrest the downward pressure upon rents, particularly those for space planned for industrial, commercial, and professional use. An inevitable consequence of this development will be a lessening of the market value of mortgages and similar securities, accompanied by a decline in interest rates. The net effect of this movement of profits, rents, and interest, and of the developments to which they give rise, must inevitably be a material decline in wages and the scale of living.

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[7] Douglas, "Real Wages in the United States, 1890-1926," p. 489.

[8] Hansen, "Factors Affecting Trend of Real Wages," "American Economic Review," March, 1925, p. 32.

But this is not all. A declining population results in a disproportionate piling up of people in the upper age-groups. In the twenty years from 1920 to 1940 the proportion of people over fifty in this country will have risen from about one sixth to one quarter. This must mean a great increase in the number of those dependent in whole or in part upon their relatives, upon charitable institutions, or upon the taxpayer. By 1940 it is likely that hardly a State in this Union will have failed to enact elaborate old-age pension legislation.

The effect of this accumulation of fiscal burden must be a heavier load upon the men and women of the most productive ages, with consequent deferment of marriage, and still further reduction of the birth-rate; while the death-rate, with the preponderance of the upper age-group, will continue to advance. Unless the Slavs or the colored races are destined to provide not only the consumers but the producers, and eventually the administrators as well, the whole complicated economico-political structure, slowly put together by earlier generations and still more or less efficiently operating, will enter shortly upon a period of declining efficiency, and conceivably, in a future closer to us and more real than the "overcrowding" predicted by advocates of the prevention of births, may cease to function at all.

## *Part IV*

# THE SOCIAL AND MORAL ASPECTS

## *Part IV*

## CHAPTER XV

# THE TWO-CHILD SYSTEM

WILL birth-prevention improve the race? The devotees of contraception allege that it will, but in the absence of trustworthy evidence to support an assertion of such sweeping character, many remain unconvinced. There are other questions that should be answered first. What do we mean by race improvement? Whose criteria will determine the measure of improvement? No beginning has been made in the gigantic task of defining the terms of this discussion.

One great cleavage of opinion will immediately be evident. Reference has been made in past pages to an economic theory that sought to discover that point in population growth at which the per capita income would be the greatest, and then to maintain the population at that point. The objection—among others—was made that by this theory a purely material standard of life was set up. Per capita income became the sole determinant. All the higher things of life were ignored. Cultural values, spiritual aims and ideals, were thrown into the discard. Life was measured by monetary returns. Race improvement, interpreted in the light of this theory, would necessarily be measured by a purely material standard.

A philosophy of life written in terms of a spiritual soul with an eternal destiny would give a very different meaning to the phrase. "Race improvement" would then signify a trend towards the more universal acceptance of the teaching of revelation and the more general adherence to a definite and objective moral code.

In between these two schools of thought lie almost as many interpretations as there are those who interpret. "It seems to me," says Professor Henry Pratt Fairchild of New York University, "that there can be but one criterion which is of universal application, tangible and capable of some degree of concrete measurement and representation: This is human happiness. . . . Happiness, to be sure, is a very large and inclusive term, and many different things are involved in it. For the practical purposes of social science, particularly in matters of population, it is expedient to limit the discussion to those forms of happiness which rest upon material supplies, in short, to the standard of living. In the standard of living is found the final goal of all conscious social effort and engineering that deals with the material aspects of life, and almost every aspect of well-being is more or less closely dependent upon the material underpinning of existence." [1]

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[1] Fairchild, "Optimum Population," "Problems of Overpopulation," edited by Margaret Sanger (Report of the Sixth Inter-

Happiness, to Professor Fairchild, is the test of race improvement, but a purely material happiness, one that "rests upon material supplies." The rich, then, would be happy and the poor sad, and a higher average of wealth would mean a higher average of happiness and a truly progressive people. Again, a standard rooted in materialism.

The average contraceptionist probably has not attempted to frame any definite standards by which race improvement may be measured, nor has he tried to put into words precisely what he means by the term. In a general way, he argues along two lines: first, that contraception means fewer children and therefore greater opportunity, economically and otherwise, for such as are permitted to be born; secondly, that contraception is a means whereby the unfit may avoid children while the fit may have them, with the result that a sturdier, more intelligent, and more capable race will develop.

The "small-family ideal" is presented to us to-day through every conceivable medium. Social sanctions are all in terms of the one- or two-child family. Motherhood is no longer held in the honor that has been its badge traditionally. Large families are considered socially *déclassées*. As an eminent gynecologist said recently, it is not thought "nice" to have too many children. Successive pregnancies are a sign not of unselfishness or nobility, but of lack of intelli-

national Neo-Malthusian and Birth Control Conference, Vol. II), The American Birth Control League, New York, 1926, pp. 32-33.

gence and foresight. The father of a numerous progeny is classed by his wife's friends as an inconsiderate oaf.

The small apartment is almost universal in cities. "Three rooms and bath" does not make much allowance for enlargement of the family circle. Standards of living involving the purchase and possession of many things in excess of human needs and not infrequently prejudicial to health are foisted upon us by clever advertising and the exploitation of the urge to "keep up with the Joneses." The cumulative effect of street-car placards, newspaper spreads, and bill-board posters is a powerful one. Possession or non-possession of certain much-advertised products itself carries a certain social sanction. The young wife who cannot cool the beverages that she serves to her guests with uniform ice-cubes feels that she does not quite "belong." Electric refrigeration has been made a basis of happiness!

In like manner, all along the line false standards are set up; standards of possession, not of being; standards that are artificial and misleading—standards, all too often, that are incompatible with any but a small family. This fact, coupled with the social sanction to which reference has already been made, far more than genuine economic necessity, has been responsible for the enthroning of the two-child standard as the supposed American ideal. Nor, in passing, can it be said that the industrial and financial depression through which, at this writing, the country is passing, is responsible for this development.

It is an interesting and significant fact that it was upon the crest of the mightiest wave of prosperity that the country has ever known that the small-family ideal came into its own.

Man not only sees but also thinks in perspective. The bush closest at hand bulks large; the tree on the horizon is too small to hold the eye. The problem to be settled to-day absorbs all attention; the problem of the future is of much less consequence. This is perfectly natural—but frequently unfortunate.

The economic consequences of the small family have been discussed at some length.[2] The breadwinner certainly will have an easier time supporting and educating two children than four, as long as all the neighbors do not follow his example and have but two—or one or none—instead of four. But let the two-child family be the average (as is the tendency to-day), and the resultant decline in population will have so tremendous a repercussion throughout the whole economic and industrial system that per capita income as represented by wages, income from investments, rent, and interest will rapidly decrease, and the last state of that family will be far worse than the first.

If per capita income, therefore, or standard of living, is to be taken as the standard of race improvement, or as the means to it, birth-prevention should be shunned like leprosy. ✓

It is curious how few of even our most far-seeing men of affairs have thought through this phase of the problem. The manufacturer and the merchant whose advertising managers, in the endeavor to promote the sales of their products, prepare for the Sunday rotogravure sections and the magazines that go into the homes elaborate illustrations of the mother and her *two* children variously disposed about the three-room apartment, do not seem to realize that they are subtly contributing to the development of a psychology that in the near future will bear fruit in a steady decline in their potential customers. The builder who pictures his new house in the pleasant suburb, with a boy and a girl and a dog romping on the lawn, is hastening the day when he need build no more. The apartment house owner who refuses to accept as tenants the couple with children, is creating vacancies for other years. The automobile manufacturer whose shining product is always shown standing before the splendid home upon whose doorstep few children ever play, might well plan now to adjust his future production on the basis of far fewer customers.

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[2] Chapter XIV.

And the wealthy banker whose wife devotes her energies and contributes from his resources to the spread of propaganda the ultimate effect of which can only serve to dry up the very sources of his wealth, is one of the most curious anomalies of our national life!

Bearing on this consideration is an article by Dr. Friedrich Burgdörfer in the April 10, 1931, issue of the "Deutsche Allgemeine Zeitung":

> "A population in which the two-child system prevails," says Dr. Burgdörfer, "and in which consequently there are but two children on the average surviving to each marriage, is condemned to extinction. Such a population will rapidly decline from generation to generation, that is, over successive periods of thirty years. . . . A thousand people among whom the two-child system rules will shrink in the first thirty years to 621. In sixty years there will be but 386; in ninety years 240; in one hundred and twenty years 149; in one hundred and fifty years 92, and after another one hundred and fifty years there will be but 8 persons to replace the original thousand. Practically speaking, therefore, the two-child system leads to the extinction of a population in three hundred years!"

On the basis of economic consideration, therefore, the plea for the two-child family must be rejected. But for the sake of discussion, let us for a moment do what cannot be done in real life—put aside this question and think in terms other than financial of the welfare of the intimate family group. Here is the real happy hunting-ground of the dilettante contraceptionist. Even the quasi-scientific advocate of birth-prevention has to-day found untenable the citadel that he has erected on the foundation of population and economic theory. The humanitarian approach is rich in emotional appeal and therefore always popular. But he is on no safer ground here.

Is the small family healthier and happier than the large one, and does it contribute more to the community? Although the contraceptionist contends that it is and does, there are many grounds upon which this unsupported assertion may be questioned. A well-known gynecologist, Dr. A. W. Ausems, in an address delivered at the National Congress Against Neo-Malthusianism, held in Holland in August, 1929, classed as utterly unreliable neo-Malthusian statements stamping physical and mental inferiority upon the later children in large families. "Such utterances," he said, "are either consciously intended to mislead, or, if more or less in good faith, are based upon individual experiences such as each of us in our rounds meets in large but poor families where a bad father or mother or unfavorable living conditions, often the two combined, plunge the large family into misery. But such accidental cases do not justify the conclusion that the later children of large families are of inferior quality. All Malthusian plaints about the large family are based on casuistry and have fallen by the wayside."

On the basis of wide study, Dr. Ausems decides that the large family is not inferior in quality, that the children do not successively grow weaker and less sturdy, and that the mortality rate is not higher than in small families. He gives as an example the results of his own observations of one hundred families among his patients. These families had a total of precisely eight hundred children, an average of eight for each. Of this number, up to the time of the inquiry, forty had died. This, says Dr. Ausems, may be regarded as a low percentage. More significant, however, is the fact that in no case was death attributable to the direct or indirect effect of the large family. All the children had died of accidental illness. In a number of the families none of the children had ever needed a doctor. In not a few the last born was the sturdiest. There was not a single fact that would point to a progressive deterioration in the quality of the children.

On another occasion Dr. Ausems made an inquiry as to the status of the mothers in one hundred and sixty-five families that had averaged nine children each. One hundred and eight of these mothers at their death averaged 64.5 years of age. Fifty-seven were still alive at an average age of 64.3 years. Frequent child-bearing can hardly be said to have brought the mothers of this group, selected at random, to death before their time.

The distinguished British authority, Dr. John Brownlee, arrives at the same conclusion as Dr. Ausems. Dr. Helen Gamgee made a study of five hundred very poor families selected at random in Hull, England, and found that the health of both mothers and children was better in families with five children and over than in those having less than five. Dr. F. J. McCann, frequently quoted in the medical section of this volume, ridicules the notion that pregnancy is harmful to the normal woman.

"In pregnancy," says Dr. McCann, "woman attains her full physiological consummation, while the lack of this attainment favours the development of pathological changes in her sex organs. . . . It is well known that many women live to a ripe old age who have given birth to a large number of children.

Thus, to regard pregnancy, or still more, repeated pregnancy, as a disease, is not only physiologically unsound, but is untrue."

Similar studies made by Bell, Jones, Powys, and others indicate that in spite of such risks as may be entailed by child-bearing and parturition, mothers of from six to eight children are more healthy than those of two to four.

In general it may be said that the evidence seems overwhelmingly in favor of the proposition that the later children in families of more than four or five are quite as sturdy, long-lived, able, useful, and fertile as the earlier children, and that mothers of large families suffer no ill effects as a direct result of repeated pregnancies. Moreover, impressive lists have been compiled of powerful figures in the annals of mankind who have been among the younger children in families to which more than six have been born. A full discussion in English of this point is to be found in the work of Professor Samuel J. Holmes, "The Trend of the Race," published in New York in 1921. The contention that the small family contributes to improvement of the health of the race is not in accordance with the facts.

From the point of view of temperament and character, what is to be said? A prominent medical practitioner, recently asked his opinion on the results which he had observed of contraceptive practice, after stating various physiological and neurological consequences, made this significant addition: "The present generation comes from one- or two-child families. Such children are selfish and non-sacrificing." This is, perhaps, too sweeping a statement, as is the frequent characterization of the only child as "spoiled." It is undeniable, however, that the lot of the only child is a lonely and unhappy one, and so, only in lesser degree, is that of the two children in the family of that size. Deprived of the healthy, democratic companionship of brothers and sisters, they are all too likely to become selfish, self-centered, introspective, supersensitive, and maladjusted. On the other hand, the family of four or more children is a happy one. In their formative years the members of this little world must learn the lessons of coöperation and team-work, of mutual help and consideration, of unselfishness and charity. They must learn self-control in their emotional life; their whole outlook is broadened. At a very early age they learn how to associate with others, how to adjust themselves in a group. The older children, too, learn to look after the younger ones. When they in turn come to marriageable age, the problems of parenthood do not form for them an uncharted and terrifying sea. Other things being equal, in character and temperament they are aided, by this varied contact in the intimacy of the family circle, to fight the battle of adult life.

Nor does this good influence extend solely to the children of the household. The love of children, the development of family affection, and the responsibilities that grow out of them, play a most important part in the lives of men and women. "Home building and child rearing," Dr. John M. Cooper says very beautifully in his brochure, "Birth Control," "call forth unselfish devotion of mate to mate, of parents to offspring, and urge into action and sustain at high tension the unselfish love for others that gives to humanity its radiant tinge of the divine." With the onset of age, as Hobson says, their children and their children's interests represent almost all that is worth while in life and give to their existence a zest and a flavor that make the declining years happy and contented ones. A one- or two-child marriage runs the risk of emotional poverty in later life. And tragic indeed is the household where death has taken an only child! And haunting the fear of the parents who have lost one of the two that they have allowed God to give them, and live in dread that He will take the second also, and send them childless to the grave!

With these considerations in mind, it is hard to see how the small family as such can be thought to make any contribution to the improvement of the race.

The contraceptionist, we have pointed out, claims that his panacea would improve the race by enabling the unfit to avoid children while the more fit would have them. But it simply has not worked out that way. Dr. Drysdale, Britain's archproponent of birth-prevention, laments that the upper classes have not taken advantage of the opportunity offered to them. In this country, as in Great Britain and elsewhere, it is unfortunately a fact that, generally speaking, the classes socially, economically, and culturally favored have fewer children than those less fortunately situated. In other words, it would seem that the better able a man and woman are to take care of children, the less willing they are, as a general rule, to accept the responsibility. This is a fact of common observation. Data confirming it have been gathered and analyzed by Ellsworth Huntington and Leon F. Whitney in their volume, "The Builders of America." They deserve that title, say the authors, who are "men and women whose brains are well balanced, well directed, and active; people of fine temperament, fine intelligence, and fine health. Such Builders have subdued the wilderness, created our institutions, developed our social system, and improved human health. They have invented machinery that multiplies the work of one man into a hundred; they have conquered time by speeding up man's work in a thousand different ways; they have lengthened man's working life by making the night as light as the day; they have linked the whole round world into a single unit wherein it is possible for people everywhere to listen to the same speaker. Such Builders have spanned the continent with rails, plowed the sea with ships, and cleft the air with airplanes. They have evolved new systems of government, industry and commerce. They have prompted universal education, religion and philanthropy, and have sent missionaries to the world's remotest corners. They have wrought a new thing in the shape of modern science. They are fast making it possible to direct the evolution of plants, animals and even of man himself."

Have we in the United States to-day enough such men and women? What will the next generation show? After a series of calculations based upon mental, physical, and emotional qualifications as revealed by United States Army and other tests, the conclusion is reached that "the number of people who are competent in intellect, temperament and body is pitifully small compared with the number who are needed. In this fact lies the greatest menace to the future of civilization. Or rather, the menace lies not only in this, but in the further fact that the demand for such men in proportion to the population is steadily growing, while the supply is diminishing.

The demonstration of this final statement lies in a qualitative analysis of the birth-rate. As indicated elsewhere in this volume,[3] the number of children per family necessary to keep the population merely stationary is something over three. A group within the population, that wishes to preserve its relative proportion to the total and increase slightly would, therefore, have to average about four children per family. What is actually the case? Huntington and Whitney provide us with several examples. "Perhaps," they say, "the parents of Yale students are fairly representative of the Builder type. The sixteen hundred native-born students of native parentage who received the A.B. degree at Yale from

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[3] Chapter XI.

1922 to 1926 came from families in which the average number of children is reported as 2.4." This figure shows a substantial deficit from the number necessary for these "builders" to reproduce themselves.

"Another group which well represents the Builders is the people in 'Who's Who in America.' . . . Here it is enough to say that among several thousand whose families have recently been completed the average number of children is 2.8."

An examination of the number of children per family with reference to the occupations of the fathers gives similar results. These occupations are arranged in five groups: the brain-workers, the skilled laborers, the good craftsmen, the semiskilled laborers, and the unskilled laborers. Suppose that at this time one thousand fathers were equally divided among these groups, two hundred to each. Applying the differential birth-rate, as worked out, to them, the first three groups would dwindle, while the remaining two would grow. In five generations, the results, as far as they can be approximated, would be as follows: Group I would have been reduced to about one eighth of its former size. Group II would have fallen from two hundred to ninety-three, and Group III from two hundred to one hundred and fifty-two. But Group IV would have grown from two hundred to two hundred and fifty-five, and Group V would now number four hundred and seventy-two out of every thousand. "The body politic has become a distorted monster with a diminutive and dwindling head, and huge unwieldy arms and legs."

On the theory that "Perhaps no single, well-defined group of people exceeds college graduates in influence, or contains so many Builders," the inquiry was extended to include the alumni and alumnæ of several of our most prominent institutions of learning. Harvard is the first selected. Dr. John C. Phillips, who compiled and analyzed the data, says:

"The most surprising and perhaps disquieting feature of all is the rapidly rising proportion of childless marriages. There has been an increase from about 15 per cent in the decade 1851-60 to 25 or 26 per cent in the class period 1890-1900. This rise has been progressive. In the ten last classes considered here it never got lower than 24 per cent and there is a gain of 3 per cent over the decade previous. . . . This proportion of childless marriages is far and away larger than it is for any other group that I have heard of."

Regarding the families where there are any children at all, two startling facts at once appear. One is that the average "has fallen to only 2.6 for the classes of 1891-1900. . . . The other fact is that when all the graduates, both married and unmarried, are considered, it appears that at no period since 1850—and no one knows for how long before that—have there been as many children of Harvard graduates as there are graduates plus the wives of the graduates and the unmarried women who might have been the wives of the unmarried graduates.

Even for the classes of 1861-1870, whose record is best, the average number of children falls just short of two; while for the classes of 1891-1900 it falls below 1.5 and is not likely to rise above 1.6 even when the families of those classes are complete."

The full significance of this fact is made more evident by the following simple device. If the children of Harvard graduates intermarried only among themselves, how many descendants of graduates would there be to return as future students?

Huntington and Whitney tell the story: "Let us suppose that all the sons of each class are concentrated to form another class 35 years after graduation of the fathers. In that case, the class of 1895, for example, which numbered 411 at graduation, would send 263 sons to form the class of 1930, and so on, as appears in the following table:

| | |
|---|---|
| Class of 1895 | 411 |
| Class of 1930 | 263 |
| Class of 1965 | 171 |
| Class of 2000 | 119 |
| Class of 2035 | 70 |
| Class of 2070 | 45 |
| Class of 2105 | 29 |
| Class of 2140 | 18 |
| Class of 2175 | 12 |
| Class of 2210 | 8 |
| Class of 2245 | 5 |
| Class of 2280 | 3 |
| Class of 2315 | 2 |
| Class of 2350 | 1 |
| Class of 2385 | 0." |

The inquiry is now shifted to the graduates of women's colleges. Here, say the authors of "The Builders," "the record of lost children is even sadder. The most productive of the women's colleges, so far as children are concerned, stand about on a par with the least productive men's colleges. . . . Among Bryn Mawr graduates from 1889 to 1899, only 45 per cent were married, while no less than 26 per cent of those who were married had no children. Thus the burden of replacing themselves, their husbands, their unmarried college classmates, and the men who might have married those college classmates, fell on only 35 out of every 100 graduates. In order to prevent the descendants of Bryn Mawr women from forming a steadily decreasing percentage of the population of the country, those 35 per cent would have had to have about eight children apiece. Of course, they had no such number—only an average of 2.3 among graduates who had been married at least 24 years, in 1924. . . . *The grand average for both the married and the unmarried is only 1.1 per graduate.*" (Italics ours.) Let it not be forgotten that mortality from diseases of infancy and childhood will prevent a certain percentage of these from reaching college age.

Though the record is a little better in the next group of Bryn Mawr graduates, the improvement is not such as to raise any hope, especially in the light of the records of other women's colleges. At Vassar the percentage of childless marriages is 23, while the average number of children per alumna of the classes 1897 to 1906 is but 1.1.[4] Smith College graduates of the classes from 1903 to 1910 average 1.2 children. Mount Holyoke's classes of 1894 to 1903 inclusive average 1.1 children per graduate. Goucher reports 1.0 children per graduate, and Radcliffe about the same. The Wellesley College Alumnæ Association reports but 57 per cent of its 4,000 members married, and an average of but 0.75 children per graduate!

"The most discouraging feature of the whole situation, so far as colleges are concerned," concludes "The Builders," "is the fact that the finest people, especially the finest women, have so little appreciation of what it all means. For example, the Bryn Mawr Alumnæ Bulletin for January, 1927, contains an admirable report of 36 pages on the Graduate School. The subjects that are fully discussed include the history and functions of the School, the kind and number of the women who belong to it, their occupations and salaries, the Doctors of Philosophy and their success in life, the professional careers of the students who have married, the foreigners who have attended the School, and the foreign schools to which Bryn Mawr women have gone. But strangely enough, only two-thirds of one per cent of the whole article is devoted to children. The one table which fills most of that small space presents a strong contrast to all the other tables. It is practically worth-less because it gives no indication as to the ages of the women whose children are reported or as to how long they have been married. Of course, the committee which prepared this report was under no obligation to discuss children, but if the true significance of an institution like the Graduate School of Bryn Mawr College is to be understood, the children of the graduates are assuredly quite as important as the salaries, or as the percentages who study abroad and in other colleges!"

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[4] These figures are based upon a study made by Professor Mabel Newcomer and published in the "Vassar Quarterly," January, 1924.

In the light of these facts, to what extent would the plea for the support of voluntary family limitation as a public policy on the ground of race improvement appear to be justified?

A biological approach to the relationship of contraception to race improvement is made by Dr. A. W. Ausems, the Netherlandish authority already referred to. Dr. Ausems classifies women, with respect to potential motherhood, into four main groups. Endeavoring to avoid, as far as possible, his technical terminology, these groups may be enumerated as: (1) the fully developed, womanly woman; (2) the underdeveloped woman; (3) the bisexual or mannish woman; (4) the infantile type. It is the first of these groups that produces the bulk of the population, while the second trails along with an average of one or two children. The other two groups are not necessarily sterile in the biological sense, but they reproduce only in negligible numbers. The bisexual type takes an active and independent part in all forms of competition with men, furnishing the leaders in movements for the emancipation of womankind from actual or imaginary subjection. The infantile type furnishes the recruits for the regiments of female parasites, professional or amateur prostitutes, and other non-producing classes of consumers.

As has been said, these last two groups produce very few children, and the number borne by the mothers in the second classification, relative to the total population, is very small. Hence, as the spread of contraceptive measures results in continued decline of the birth-rate, *its principal effect must inevitably be among the children of those best qualified for motherhood!* Even though birth-prevention were to eliminate entirely the few children of the bisexual and infantile groups, and reduce materially the number born to mothers of the second of Dr. Ausems's categories, the total number concerned would be so few that the effect on the birth-rate would be negligible. It is at the expense of the children of the first group, the highest category, that the neo-Malthusian reduces the population. Not only, then, does he sin against the race quantitatively, but qualitatively as well!

Race improvement, clearly, will never be achieved by limiting families to two children—or less—on the average. The improvement of mankind physically, intellectually, morally, can come about only slowly, and through the operation of an imposing number of distinct factors. Certainly the conservation of the fundamental instincts of the race, however refined and controlled those instincts are ultimately to be, is a prerequisite to improvement. Those instincts cannot remain unimpaired if society decides to stop reproducing beyond the number required to assure one heir, or possibly two heirs, for each estate.

## CHAPTER XVI

# THE BREAK IN THE DIKE

FREQUENT news items of recent date have told of the Western city where the shackles of matrimony are struck off one to the minute and fall clanking to the ground to the accompaniment of the blare of jazz and the rolling of dice. It is a sad commentary on our modern civilization that such a thing should be possible. It is even sadder that it should be made the subject of jest and anecdote, instead of receiving the universal and scathing denunciation that it deserves.

For a generation the press has joined with the pulpit in "viewing with alarm" the constant spread of the divorce evil, but the evil has gone on spreading just the same. Like certain well-known Anglo-Saxon terms that in the past never got beyond the precincts of the smoking-room or the stables but now are invested with the sanction of the drawing-room, divorce, one-time social outcast, is now received by our best families and circulates freely in our most exclusive society.

This unfortunate situation is the inevitable consequence of the first relaxing of standards. It is a perfectly logical process, well understood in both the material and the spiritual world. One of the national legends of Holland is built around the story of the little Dutch hero who through a whole night stopped with his finger a tiny break that left unchecked would have ruptured the dike and flooded the whole country-side. Any exception allowed to a moral code is a break in the dike. By allowing divorce even on the grounds of infidelity alone, such an exception is made. By it sanction is placed upon the idea that the marriage-bond is not something permanent and indissoluble but a tie that can be broken. Once grant this, and more and more reasons will be found for breaking it. The ultimate result, in the words of Paul Bureau in "Towards Moral Bankruptcy," will be that "capricious passion and conjugal infidelity are encouraged, a premium is placed upon fickleness and selfish interest even in concluding the most formidable and serious of all contracts, marked preference is given to the sterile or the little fruitful union, and the monogamic ideal gradually comes to be abandoned."

What has all this to do with contraception? The pronouncement of the Lambeth Conference of Anglican Bishops on birth-control received wide publicity. Resolution No. 15 recorded the conference's "strong condemnation of the use of any methods of conception control from motives of selfishness, luxury, or mere convenience." It allowed such practice "in those cases where there is a clearly felt moral obligation to limit or avoid parenthood . . . and a sound reason for avoiding complete abstinence."

We are not here concerned with what may constitute the "clearly felt moral obligation" of which the bishops wrote. But we are concerned, and deeply so, that these moral leaders allow any exception at all. We have seen the scourge that followed in the train of allowing any exceptions in the case of divorce; of admitting that, even for the most pressing of reasons or in the most extreme circumstances, a rupture of the marriage tie was possible.

But the lesson has apparently been of no value. The bishops at Lambeth have lifted the condemnation of contraception as an evil thing in itself; they have transferred its malice from the act to the motive that inspires it; they have allowed an exception to the law: there is the break in the dike—now the deluge!

Inevitably the deluge—and logically so! Once the act of preventing birth is declared of indifferent morality, neither good nor bad in itself, but so constituted only by motive or other circumstance, and the way for the ultimately unlimited practice of contraception is prepared. Who is to determine whether a "sound reason" exists for the use of methods of preventing conception other than "complete abstinence"? Is it not the couple immediately concerned? Are they not judge and jury in their own case? And there are but few of such complete intellectual and moral honesty as to admit that they are acting from motives of selfishness or luxury. What one of us is there who cannot rationalize his own actions? Who cannot find justification or excuse for what he does? A professor at the Sorbonne, M. Édouard Jordan, states this well when he says: "No one doubts his right to use neo-Malthusian practices. They will be abused as long as they are believed to be permissible, even in exceptional cases; for we at least shall persuade ourselves that our own case is always exceptional. What pregnancy does not affect the wife's health? What confinement does not make her run some measure of risk? What income does not feel the burden of a birth or an education? What unexpected arrival comes just at the right moment, and does not interfere with some plan, perhaps an important one?"

"No one is ignorant of this," says M. Bureau, "and therefore it is but logical to follow motives which are supposed no longer to run counter to any deep moral principle."

The Federal Council of Churches of Christ of America has made the same fatal error as the bishops at Lambeth.[1] Its "guarded approval" of contraception is based upon a profound misunderstanding of human psychology. "A majority of the Committee on Marriage and the Home," holds that *careful and*

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[1] As we go to press newspapers of the country carry notice that the Presbyterian General Assembly has taken action to rebuke the Federal Council of Churches of Christ in America for its "guarded endorsement," reminding the Federal Council that it does not represent its constituent denominations in any opinion not specifically authorized by the denominations.

In addition, the Northern Baptist Convention adopted by acclamation a resolution to "disclaim any implication that we as a denomination have approved the [birth-control] transaction."

*restrained use* of contraceptives by married people is valid and moral." (Italics ours.) No intrinsic evil is seen in contraception—and each couple decides for itself when it is availing itself of the license granted in a way that may be described as "careful and restrained." "That undesirable use of contraceptives will not be indulged in by most people" is the belief of those who deliver this naïve instruction. But once grant that there is no evil in contraception itself, once allow it at all, and what use of it that will achieve the end proposed can be described as "undesirable"?

Dr. John M. Cooper, in his brochure, "Birth Control," lays special emphasis on this point under the heading of "The Wedge Principle in Ethics":

"Such wedge action, as we may call it, tends to be operative particularly where, on the one hand, human interests and hungers of high driving power urge for satisfaction, and where, on the other hand, there prevails no impartial moral standard or unbiased tribunal to determine whether, in view of deeper and broader considerations of human welfare, the more egoistic interests and hungers should be released and satisfied or else inhibited and controlled. The actual decision and course of actions tends to be along lines suggested by the egoistic interests and cravings themselves rather than along lines demanded by altruistic ethics. The individual human animal is a proverbially poor judge in his own cause.

"The same sinister wedge action," continues Dr.

Cooper, "is unmistakably apparent in the matter of artificial birth control. The consistently progressive decline in fertility and the birth rate among those sections of our modern western culture that have adopted the theory and practice of contraception is a matter of common knowledge. . . . Masterful interests and cravings, unchecked by uncompromising standards of conduct or by competent impartial tribunals, have already brought about gravely anti-social and dysgenic results that are deplored even by most thinking contraceptionists themselves.

"To admit contraception as under some circumstances ethical and at the same time to counsel 'moderation' and adequate fulfillment of responsibilities is worse than playing with fire. It is starting a conflagration. The evidence jumps at us from every fence corner. Such a program might conceivably work out in practice with some other race on some other planet. But we are concerned with our own race on this our own planet, and no sociological fact rests on a firmer observational and statistical basis than the fact that practically and in reality the groups that admit and practice contraception, for whatsoever reason and in whatsoever exceptional situations, do not practice it in 'moderation,' nor have we a single workable suggestion that offers a ghost of a hope that we can ever get them to practice it in 'moderation.' The wedge, once allowed entrance, pierces ever deeper and deeper."

Contraception is the most sinister figure in modern society. Yet, like divorce, she has filched a garb of respectability. The caveats of "guarded approval," use that is "not undesirable," "careful and restrained use," mean nothing to her. From home to home she bears her poisonous presence, leaving behind her the paradoxical mockery of childless parents, the tragedy of a dying race.

She walks hand in hand with divorce. Supreme Court Justice Lewis of Brooklyn, in a survey of sixty-four undefended divorce cases tried by him in one day, found that there was but one child for every two couples, and that the duration of the marriages averaged less than three years. This eminent jurist believes that too many women are not becoming mothers, and apparently have listened eagerly to the advocates of birth-control. As he is quoted in the press, Justice Lewis says:

"It is my conclusion that childless homes are responsible for the almost complete absence of real home life.

"In nine cases out of ten, the suing woman eagerly says she desires no alimony, which leads to the inescapable conclusion that she is so anxious to get rid of the man she promised to love, honor and obey, that she waives all alimony, and is willing to step out into the workaday world and earn her own livelihood.

"Not long ago a home meant something. It was the location of our birth. It was the place where we entertained our friends and where we held all our family functions. To-day we are born in hospitals, we entertain in our clubs, we eat in restaurants, we entertain our visiting friends in cabarets, we are married in the churches or hotels, and we are buried from funeral parlors.

"I cannot help but reach the conclusion that if our women had children there would be more happiness and fewer divorces. Presence of children attracts the husband to his home, and keeps the mothers from the gossiping neighbors and bridge parties. Absence of children promotes discord. Their presence makes for harmony. I know of scores of cases where the husband remains home merely for the sake of his love for the children. If such men did not have children, they would leave their wives and either get or give a divorce."

This statement, based upon wide experience, may be crystallized into the judgment that "contraception is part of a moral code which includes easy divorce and whose *reductio ad absurdum* is Judge Lindsey's Trial Marriage."

So much for contraception within the family: race decline—the two-child standard, as we have seen, means the virtual extinction of a population in three hundred years; a whole collection of medical ills; parental selfishness; lack of balance in the children; more frequent divorce; the trial marriage. . . .

But the consequences of this evil thing do not stop even here. "The professional prostitute is being driven from the streets by amateur competition," said a writer on sociological subjects recently. This is a shocking statement; let us hope that it is an overstatement. But it cannot be questioned that the increasingly widespread knowledge of contraceptive methods has stimulated irregular sex-experience. The "guarded approval" statement of the Committee on Marriage and the Home of the Federal Council of Churches grants this: "That serious evils, such as extra-marital sex relations," says the statement, "may be increased by a general knowledge of contraceptives must be recognized."

To what extent this is already the case no one can say. Obviously, such a discussion is not readily reducible to statistical analysis. Some startling facts are, however, available. There are, as we have seen, rather a surprising variety of methods by which the attempt is made to avoid parenthood while indulging in sexual intercourse. According to estimates of manufacturers, the production of devices for use by the male in the United States now probably exceeds 5,000,000 each working-day! Assuming that ten per cent of our production goes abroad, we must still see that the consumption in this country approximates the hideous total of 27,000,000 weekly! When this is compared with the fact that there are about 18,000,000 married women of child-bearing age in the country—for whose "protection" these and like devices are defended and the right to recommend them promiscuously demanded—the significance of these figures is startling.

The manufacture and sale of mechanical appliances for birth-prevention has become a well-organized industry. The wholesale orders of large drug-companies involve the shipment of thousands of gross at a time; whether, where, or when they go seems to be a matter of indifference to federal or local authorities. Every doctor is constantly in receipt of advertising material advancing the claims of one or other device. Nor can it be said that concern for "race improvement" or other altruistic ideals constitutes the dominant motif of such advertising. "Double your money on every sale," says one such blurb. "The direct mail, sampling (4 samples to each physician), and national magazine advertising is putting the spotlight of powerful publicity behind the product that gives you a profit of $8 every time you sell a dozen-deal!"

Or consider the following contribution to this curious literature, this one emanating from Akron, Ohio: "We do not handle immoral or so-called fancy goods. Please do not ask for them." Then follows a highly "moral" list of contraceptive devices, as well as prophylactic tubes piously dedicated to one of the foremost female advocates of contraceptive practice. Invigorating tonics, and the principal abortifacients, are included in the list!

These are the high lights in the picture. Contraception: handmaid of marital degradation and extramarital indulgence!

So the Catholic Church, "to whom God has entrusted the defense of the integrity and purity of morals, standing erect in the midst of the moral ruin which surrounds her," proclaims, "Any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life is an offense against the law of God and of nature, and those who indulge in such are branded with the guilt of grave sin."

Here is a clear, definite, and final statement—no dallying, no compromise, no diplomatic evasions, no calculated obscurities. No exceptions are allowed; there is no trickle through the dike. Contraception is wrong; it cannot be allowed under any circumstances.

First and foremost, this pronouncement constitutes an authoritative moral instruction from the Head of the Catholic Church to its members. As such its contents will be discussed in the following chapter. But besides that it is a profound sociological presentment.

The Church has a triple ministry in the world, corresponding to the threefold mission of her Founder. Christ came on earth as Teacher, Priest, and King: to instruct, to save, and to rule. Such is the function of the Church to-day: essentially a spiritual one. But Christ recognized that man is a creature composed of a body as well as a soul. We are told that "He went about doing good," and the pages of the New Testament are filled with His miracles of mercy. He saved the bridegroom and the bride from embarrassment at the marriage-feast of Cana. He fed the hungry. He restored sight to the blind. He brought back to life the son of the Widow of Naim. He raised Lazarus from the tomb. . . . "But there are also many other things which Jesus did: which if they were written every one, the world itself, I think, would not be able to contain the books that should be written." John, XXI, 25.

And the Church has always followed directly in Christ's footsteps. From the first deacons who ministered to the poor in the days of the apostles, to our own time where the help that is given to suffering and needy humanity, in the same spirit of Christ, staggers the imagination, the church has not only ministered to the spiritual requirements of man, but has also been in most intimate contact with his every material need. We hear in amazement accounts of remarkable discoveries and achievements in the great physical or chemical laboratories of modern industrial or educational organizations. The Catholic Church is a vast sociological laboratory, in which every parish house is a component part; she has been studying human nature for nearly two thousand years. When she speaks, it behooves the world, believing or unbelieving, to listen.

## CHAPTER XVII

# THE MORAL WRONG OF CONTRACEPTION

THE right of the Catholic Church to give expression of weighty judgment in the field of sociology and human welfare is manifest. Millions of her children constantly turn to her for help and counsel. Her leaders in every part of the world must be alert to changing trends and varying social conditions.

First and foremost, however, her concern is for the souls of her people. In contraception she sees a great danger to them. Deliberate interference with the natural consequence of the exercise of the marital privilege is in its essence an offense against the natural law and therefore an act intrinsically evil. This is "birth-control" in the sense in which the term has been popularized, though it is strictly not birth-control at all, but birth-prevention. This is birth-control in the sense in which it is condemned by the Catholic Church. It is the attempt to make two entirely distinct processes out of what was designed by nature as single and indivisible, with the elimination of one and the placing of undue emphasis upon the other. It is the exclusion of procreation and the interpretation of sex in terms of pleasure. It is a philosophy of life that might accurately be termed "sexualism," as its adherents might be called "sexualists."

In the preceding chapters of this volume, birth-prevention has been discussed from the medical, economic, and social points of view. Though no authoritative statement has been made by the medical profession as such, many of its eminent members have given expression to vigorous and emphatic condemnation of contraceptive practice on purely medical grounds. Sterility, frequent and serious infections, and even cancer, and neurological and psychological disturbances, were mentioned as consequences of the habitual prevention of conception. The fallacy of the once popular notion of the peril of overpopulation has been exposed, and it has been indicated that a population decline is already under way in this country and much of Europe. No state would wish to stand sponsor to its own demise. In fact, *no state would have a right* to do so. If the nation is to safeguard its own continuance, any expression of public policy will be in encouragement of births, not in opening any wider the gateway to what was described by a recent President of these United States, concisely and emphatically, as "race suicide."

Prescinding from the possibility—in fact, if the present trend continues, the *certainty*—of eventual national and racial extinction, it was pointed out that a declining population, from an economic, an industrial, and particularly from an agricultural point of view, would be tantamount to national calamity. This decline would be reflected in per capita income to such a degree that there would be a thoroughly disconcerting fall in the scale of living, so laboriously advanced, generation by generation. A population increasing, even though slowly, was given as a prerequisite of prosperity—and Nature was vindicated as a provider sufficiently far-seeing and bountiful to support any reasonably conceivable future population.

Social consequences shocking in character and extent were seen to flow from any relaxation in standards.

None of these facts can be overlooked in any reasoned discussion of birth-prevention, either from the point of view of public policy or from that of the welfare of the individual. Nor does the Catholic Church do so. She is not indifferent to the prosperity of peoples or to the health of nations. In all ages and climes she has shown concern for the physical well-being of her children. But primarily and fundamentally she speaks in terms of right and wrong. And so speaking, she declares simply but effectively, in language that admits of no misinterpretation, that birth-prevention, in the popular sense of the term, is wrong:

"Any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life is an offense against the law of God and of nature, and those who indulge in such are branded with the guilt of grave sin."

This is a simple, direct, and clear statement. The Church, "to whom God has entrusted the defense of the integrity and purity of morals," has acted in virtue of this divine commission to direct her children in accordance with God's law. From the moral standpoint the question is beyond the realm of dispute. For the Catholic the case is closed.

A further and essential consideration at once presents itself. The practice of birth-prevention is, as we have seen, condemned by many people on grounds other than moral. But as a rule, even emphatic opponents of family limitation on economic, medical, or other grounds are such because they see evil effects following upon the practice. Therefore, it is the *practice*, not the *individual act*, that they condemn, and they do so not because they see anything evil in the thing itself but solely because of its consequences. Hence, while still condemning the practice, they are usually willing to grant exception in special cases. Further, if the particular ill effects that they see did not exist, *or were these effects to cease to exist*, their attitude would change accordingly. Nor would there be any inconsistency in such a change. Once base a condemnation solely upon evil consequences of the thing condemned, and it is perfectly logical to lift the condemnation when the effects are removed.

But the Church sees in deliberate frustration of the marriage privilege an act *intrinsically evil*. It is wrong not because of ill effects that may follow in its train, nor because of any conceivable set of circumstances that might attend it. It would be equally wrong even though in a particular instance it might effect material good. It is the act which is judged, entirely independent of all other considerations, and the judgment is that *the act itself is wrong;* that it is, as the scholastics would say, the very "stuff of evil," that it is, therefore, in all places and at all times and under all conditions and all circumstances, always and forever wrong.

This is a fact the importance of which cannot be overestimated. It is evident that situations may arise in which from a material or pragmatic point of view contraception would be an obvious recourse. There is no doubt that many times such extreme conditions do not actually exist, but are fabricated as an excuse for self-indulgence and the avoidance of responsibility. On the other hand, any medical practitioner can tell of cases where pregnancy and labor would be attended with serious danger, and cases of dire economic necessity are probably known to every reader of this volume. Let an extreme case be supposed—the family already large, the mother weak and worn from privation, the father incapacitated by accident or illness, other easily imaginable complications. The statistician and the economist, no matter how much each might be opposed to a philosophy of population restriction, would have no voice here; it is entirely conceivable that a person not fully conversant with all phases of the problem, and actuated solely by pragmatic considerations, would advocate contraception. If an exception can ever be made, here is the place to make it. One who condemns the practice of contraception solely because of evil consequences therefrom would be inclined to make an exception in such a case. But if the very act itself be evil, then there can be no exception, for, "Evil is not to be done that good may come of it," as St. Paul wrote to the Christians of Rome. In the words of the Holy Father: "No reason, however grave, may be put forward by which anything intrinsically against nature may become comformable to nature and morally good."

This is the answer to the question that Professor Henry Pratt Fairchild asks in the issue of the "New Republic" of January 28, 1931, "What Does the Pope Want?" It would appear, however, that Professor Fairchild's perplexity was really not occasioned by any obscurity in the Holy Father's message, but by his own failure to grasp the intimate and essential bearing of that fundamental concept, the natural law, upon the whole matter of birth-prevention. To state this simply:

There exists a code or standard of human conduct that rests directly upon nature itself and is therefore antecedent to all positive or written law. This code or standard is known as "the natural law." But interference with the normal consequence of cohabitation is intrinsically in conflict with this law. Therefore, interference with the normal consequence of cohabitation is intrinsically evil and cannot under any circumstances be tolerated.

Blackstone, writing of the natural law, says: "As man depends absolutely upon his Maker in all things, it is necessary that he should in all points conform to the Maker's will. . . . This will of his Maker is called the law of nature. . . . This law of nature . . . is binding all over the globe, in all countries and at all times: no human laws are of any validity if contrary to this."

Cicero, invoking the natural law in his classic defense of Milo, spoke of it as that law which "we have not written but which is born with us; which we have not learned, nor received from tradition, nor read, but which we have taken and drawn in and imbibed from Nature herself; a law which we were not taught but according to which we were made; in which we were not trained but which is ingrained in us." Upon the universal recognition of such a law Cicero based his case. He admitted that Milo had slain his political opponent Clodius, but declared that it had been done in self-defense. And the right of defending oneself against an unjust aggressor is prior to and independent of all man-made laws. It is a law of nature, springing from the very constitution of our being.

This law of nature is the foundation and the principal support of all positive law. The provisions on our statute books are designed to protect our neighbor's property—is theft wrong and condemned by all simply because it contravenes these man-made laws? Is it not rather that theft is universally recognized as an evil thing because it offends against the *natural right* of our neighbor to possess and hold that which is his own? When we kill our neighbor, or injure him, are we not offending against his natural, inherent rights? Who would sponsor the theory that if murder ceased to be a crime according to our statutes, we would be relieved of all obligation to respect the life and well-being of our fellow-man? No—antecedent to every human code, no matter how ancient, before all man-made laws, ecclesiastical or civil, previous even to the Ten Commandments themselves, there is another law, a law that springs from the very nature of ourselves and the things around us, a law that extends its benevolent sway into every nook and corner of our lives, a law that guides and directs and strengthens and protects us, a law whose exemplar is the mind of the Creator and whose origin is in creation itself, a law that is woven as a pattern of order and beauty into the very warp and woof of life. "Thou shalt not kill. . . . Thou shalt not commit adultery. . . . Thou shalt not steal"—so God spoke in the thunders of Sinai. He was but putting into words the unspoken law of the universe, the law by which right is separated from wrong as God separated the waters that are above the earth from those that are below, the law that from Adam to Antichrist provides humanity with its ultimate standard of morality.

Unless we are to posit moral anarchy, therefore, we must grant the existence of an objective norm or standard of conduct. We might go further and declare that unless we would posit not only moral but civil anarchy as well, we are compelled to make the same admission. Horace, keen observer of affairs, once said: "Of what use are laws without morals?" Our people, we hope, will never come to deny the existence of sanction other than that provided by their statute books. Nothing will save the world from chaos when men cease to respect one another's rights. And sad will be the plight of that nation and speedy its decay when morality becomes solely a matter of convention and hygiene, and all God-given sense of right and wrong is stifled! Not the armed watchman at the cross-roads but the sentinel of conscience must be the ultimate guardian of the rights of man—this is the law of nature.

The practice of birth-prevention offends against this law of nature. The two dominant life instincts are self-preservation and self-perpetuation. Corresponding to these instincts are the two appetites of hunger and sex desire, the one being satisfied by food, the other by conjugal intercourse. In order that we might be willing to undergo the trouble and expense involved in providing ourselves with food, we have been so constituted that the partaking of food is attended with pleasure. In order that we might be willing to bear the burden of parenthood, pleasurable sensations are associated with the satisfaction of the sex instinct.

When we are hungry, we eat. And as we eat our systems begin to go through a long, involved, and intricate set of processes about which we know little —and if we are normal and healthy, probably care even less. All that immediately concerns us is the satisfying of our appetite. The rest we leave to nature. Never for a moment would it occur to us to go into a restaurant, order and eat a meal, and then deliberately disgorge it. The very thought disgusts us. It brings us back to the days of decadent Rome and its shocking orgies, where the guests when they had eaten their fill retired to a *vomitorium* and emptied their stomachs, that they might come back to their banquet couches and begin all over again. It was eating solely for the sake of eating. Assimilation, nutrition, were positively excluded. The digestive machinery, though set in motion, was quickly halted. A process designed by nature to be one and indivisible was chopped in two. Attention was focused on the first phase of the process because of the pleasure associated with it; the second phase was eliminated. This pleasure was made an end in itself, not a means to an end. The true ends of the process, the life and health and strength of the individual, were abandoned entirely. Self-preservation was prostituted to self-delectation.

Therein precisely lies the malice of contraception. It aims to separate the pleasure so purposefully attached to the satisfaction of sex desire from the normally consequent processes of conception, gestation, and parturition. It makes copulation, not procreation, the reason and explanation of sex difference and the purpose of marriage; it makes sex enjoyment an end in itself, not a means to an end; it takes a faculty designed by God for the continuation of the race and makes of it solely an instrument of pleasure.

Once recognize the lawfulness of seeking sex pleasure solely for its own sake, and behold the result! What limitations are to be placed upon the means by which this pleasure may be obtained? Or upon the circumstances under which it may be sought? In fact it is probably no mere coincidence that paralleling the spread of contraceptive practice is a growing tendency to look with complaisance upon extra-marital relationships. If children are merely to be considered a complicating circumstance, by the development of preventive methods now no longer necessarily attendant upon sex relations, why allow one's liberty to be infringed upon by traditional taboos and medieval "Thou shalt not's"? And, indeed, why? Why chastity among the unmarried or fidelity among the married if sex pleasure is to be accepted as an end in itself, and the normal consequences of sex relations can be avoided?

Nor does the chain of consequences, perfectly logical once the basic concept of the separation of sex pleasure from procreation is accepted, end at this point. Disagreeable as this whole discussion is, it must be carried through. A contraceptionist society may affect a "broad-minded" toleration of marital infidelity and premarital unchastity, it may accept adultery and fornication as an inevitable though no doubt to be regretted concomitant of its system—even the Federal Council of Churches says, "That serious evils, such as extra-marital sex relations, may be increased by a general knowledge of contraceptives must be recognized"!—but in no conceivable state of degradation could any society hold in anything but loathing and disgust the more revolting perversions of sex. Why should not two people of the same sex use the medium of sex to express their mutual affection? Or just to give each other pleasure? Why not all the shocking excess of masturbation, sodomy, homosexuality, sadism, masochism, fetichism, etc.? And if the indulgence of sexual impulse be allowed to the adult, who has any warrant for preventing his boy or girl from regular recourse to solitary vice? The mere suggestions fill us with horror—yet on what ground, if sex pleasure be separated from the procreative process and made a legitimate end in itself, are these things to be denied?

Dr. John A. Ryan sums up the argument: "The so-called contraceptive devices are intrinsically immoral because they involve the unnatural use, the perversion, of a human faculty. One of the most important human faculties is used in such a way as to frustrate its natural end. Such conduct is quite as unnatural as self-mutilation, or the practice of solitary vice. Any person who rejects this fundamental moral principle concerning the wrongfulness of perverting a faculty, must logically hold that there is no such thing as intrinsic immorality, that moral badness is always identical with individual disutility, and that anything is right which any individual thinks is useful for him. The practice in question is degrading because it perverts conjugal intercourse from coöperation (potential if not actual) with the Creator into a mere means of sensual gratification. It brings husbands and wives down to the level of mutual instruments of indulgence."

What is the solution of the problem? Self-discipline forms the natural basis—as the grace of God forms the supernatural—of a Christian married life. If from childhood the two who are now husband and wife have accustomed themselves to order their lives according to fixed and definite standards of right and wrong, then self-control is already a habit. If they have always endeavored—though perhaps, indeed, not always successfully—to do right and avoid wrong, even in the little things of life, when they come to the big things they will be prepared. If they have tried, as they are required by the Christion religion to try, to maintain control over even their *thoughts*, they will find the task much less difficult. Mastery over self is not readily won, it is a lifework. But it can be won, and it will be won by those who constantly strive for it. *Prenuptial virtue is the key to marital chastity.*

For the Catholic, interpretation of life is in terms of eternity and not of time, in terms of the spirit and not of the flesh. He knows of the indwelling of the Holy Spirit; he has heard the promise of the lasting presence of Christ, and he knows that in Him he can do all things; he knows that God's grace will be sufficient for him; he knows that God will not desert him unless He first be deserted. And he has the sacraments to strengthen him. For him continence may be, will be, hard—but not impossible.

As the Holy Father says in the Encyclical on Marriage, "There is no possible circumstance in which husband and wife cannot, strengthened by the grace of God, faithfully fulfill their duties and preserve in wedlock their chastity unspotted."

# *Part V*

# THE PUBLIC POLICY ASPECT

# *Part V*

## CHAPTER XVIII

## THE LAW AND ITS ENFORCEMENT

ONE rarely thinks of birth-control in the United States without thinking of the campaign carried on for the last dozen years to secure legislative enactments designed to relax the existing restrictions in state and federal legislation. Since the welfare of the community as a whole is at stake, each of its members should acquaint himself with the law as it is to-day, and enough of its historical background to understand it. It is well, too, to know something of the arguments advanced for its modification. For this reason a section on public policy in regard to contraception, with the two closely related matters of sterilization and abortion, has been considered essential to the purpose of this volume.

*Federal Laws on Contraception:* The federal law of the United States included no provisions with regard to contraception prior to 1873. On February 11, 1873, Senator Windom introduced a bill "for the suppression of trade in, and circulation of obscene literature and articles of immoral use," in which for the first time the subject of contraception came up for Congressional consideration. After several modifications of the original bill, it became law on March 3, 1873, and has since been referred to as the Comstock legislation, for it was Anthony Comstock who first brought to the attention of Congress the widespread traffic that was being carried on in obscene literature and articles designed to prevent conception.

Those who have sought to repeal or modify the existing law on contraception frequently allege that the inclusion of contraceptives in the Comstock legislation was carried out hastily and without due regard for the distinction that they believe should be made between obscenity and the prevention of conception. This is hardly valid when it is recalled that Anthony Comstock was not the originator of obscenity statutes. As early as 1842, a federal law contained provisions upon the subject of obscenity. Another statute approved March 3, 1865, prohibited the use of the United States mails for the conveyance of obscene publications and forbade persons to deposit or cause to be deposited such publications therein. It may be noted further that the original draft of the proposed law of 1873 contained an exception in favor of physicians "in good standing" to dispense contraceptive advice and information. This exception was finally omitted.

A comparison of the provisions of the Act of 1873 with the law now in force reveals that the former has undergone some changes since its enactment, but for the most part these were apparently designed to perfect the law. For the convenience of any one desiring to compare the actual text of the Act of 1873 with that of the federal law as it exists in its present form, both have been printed in the appendix (p. 278-86). With the single exception of Section No. 396, which became a part of the code in 1897, the whole of the present law is based directly, section for section, upon the Act of 1873.

Organized effort to repeal the federal law as it relates to contraception was first initiated in 1919, by the Voluntary Parenthood League, under the leadership of Mary Ware Dennett. The bill which this group urged was first introduced during the Sixty-seventh Congress, in the Senate by Senator Cummins of Iowa and in the House of Representatives by Congressman Kissel of New York. It was referred to a subcommittee of the Committee on the Judiciary; no hearing was held and the bill was not reported.

On January 3, 1924, during the Sixty-eighth Congress, the bill was again introduced by Congressman Vaile of Colorado. Joint hearings before subcommittees of the Committees on the Judiciary were held on April 8 and May 9, but Congress adjourned before any further action could be taken upon the bill.

The Cummins-Vaile bill, as the proposed legislation of the Voluntary Parenthood League is generally known, provided for what would amount to a repeal of existing legislation with regard to contraception, by the simple expedient of omitting from the so-called obscenity statutes the words "prevention of conception" wherever they occur. This type of legislation, however, conforms with the legislative aims of only some of the proponents of contraception, the theory being that the large majority of those seeking liberalization of the present legal restrictions cannot support a bill that merely qualifies the present law.

The second attempt to bring about a change in the laws on contraception was undertaken in the course of 1929-1930 with the organization of the National Committee on Federal Legislation for Birth Control, under the chairmanship of Mrs. Margaret Sanger. The bill which this group sponsored was introduced in the late spring of 1930 by Senator Gillett of Massachusetts. A hearing was held on the bill on February 13 and 14, 1931, before the subcommittee of the Senate Judiciary Committee, which, however, failed to report the bill before the adjournment of the Seventy-first Congress.

The Gillett Bill (S. 4582, Seventy-first Congress, Second Session) is as follows:

"A Bill to amend sections 305(a) of the Tariff Act of 1922, as amended, and sections 211, 245, and 312 of the Criminal Code, as amended,

"BE IT ENACTED by the Senate and House of Representatives of the United States of America in Congress assembled, That subdivision (a) of section 305 of the Tariff Act of 1922, as amended, and sections 211, 245 and 312 of the Criminal Code, as amended, are each amended by adding at the end thereof the following: 'The provisions of this section shall not apply (1) to information relating to the prevention of conception if published either within or without the United States by any governmental agency, medical society, medical school, or medical journal, or if reprinted, after such publication, by any person or organization whatever; nor (2) to such information if sent by any licensed physician, hospital, or clinic to any patient thereof, or to any other licensed physician, hospital, or clinic; nor (3) to information regarding the name and address of any licensed physician, hospital, or clinic giving advice relative to the prevention of conception, if such physician, hospital, or clinic is situated in the State, Territory, District of Columbia, or foreign country to which such information is sent; nor (4) to any article, instrument, substance, drug, medicine, or thing that may be used for the prevention of conception, if sent to any bona fide wholesale or retail dealer in medical supplies, or to any licensed physician, hospital, or clinic, or if sent by any licensed physician to any patient of said physician.' "

The widespread propaganda in support of this proposed legislation referred to it as the "Doctors' Bill," whereupon, as has been stated before, Dr. William C. Woodward, Director of the Bureau of Legal Medicine and Education of the American Medical Association, wrote to Senator Norris, chairman of the Committee on the Judiciary, saying that "the American Medical Association has taken no part in the preparation of this bill or in procuring its introduction. The Association has expressed no opinion with respect to the principles and purposes of this bill."

*State Laws on Contraception;* New York State enacted a law in 1869 similar to that now in force. The legislation of such other States as have embodied in their legal codes restrictions upon the traffic in contraceptives and information pertaining thereto, was subsequent to and based largely upon the federal law of 1873. Twenty-four States, however, and the District of Columbia, have no laws designed specifically to prohibit or to restrict the dissemination of contraceptive information or devices: Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Kentucky, Maryland, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and Wisconsin. North Carolina does not specifically mention contraception, but makes illegal the sale or circulation of any publication that is or may be excluded from the United States mails.

In twenty-three States it is illegal to publish or advertise information concerning contraception: Arizona, California, Colorado, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, Washington, and Wyoming. These States, together with Connecticut, where even the *use* of contraceptives is illegal, expressly prohibit drugs and instruments for the prevention of conception.

The laws of eighteen States explicitly make illegal the sale of contraceptives: Colorado, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, and Wyoming.

To inform any one where or how knowledge or articles pertaining to contraception may be obtained is contrary to the law in thirteen States: Colorado, Indiana, Iowa, Massachusetts, Minnesota, Mississippi, Nevada, New Jersey, New York, Ohio, Pennsylvania, Washington, and Wyoming.

Eleven States forbid the possession of instructions or articles having to do with contraception: Colorado, Indiana, Iowa, Kansas, Minnesota, Mississippi, New Jersey, New York, Ohio, Pennsylvania, and Wyoming.

Eight States prohibit the use of the mails or other agents for the conveyance of information or articles pertaining to contraception: Colorado, Indiana, Iowa, Minnesota, Missouri, New York, Ohio, and Wyoming. North Carolina's provision has already been stated.

The search for and seizure of instructions and articles relating to contraception are provided for by the statutes of six States, Colorado, Iowa, Minnesota, New York, Ohio, and Pennsylvania; and the manufacture of articles designed to prevent conception is prohibited by nine: Colorado, Indiana, Massachusetts, Minnesota, Mississippi, New York, Ohio, Pennsylvania, and Wyoming.

From the provisions of their laws several States, however, make exemptions in the case of medical schools: Colorado, Indiana, Missouri, Nebraska, Ohio, Pennsylvania, and Wyoming; medical books: Colorado, Indiana, Kansas, Missouri, Nebraska, Ohio, Pennsylvania, and Wyoming; physicians: Colorado, Indiana, Minnesota, Nevada, New York, Ohio, and Wyoming; and druggists: Colorado, Indiana, Ohio, and Wyoming.

Those groups which have endeavored to bring about amendments to the federal law whereby the traffic in contraceptives would become legal, have directed no inconsiderable amount of their efforts to the task of removing the prohibitions included in the laws of the several States. This has been particularly true of some of the Eastern States—Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania. Thus far, the legislatures have not yielded to the insistent demands of the advocates of contraception.

It must be observed, however, that in spite of a substantial body of law which is, at present, in force in this country, it is a notorious fact that enforcement is almost totally lacking. Since the Roosevelt administration, prosecutions for violations of these laws have been rare. Contraception now provides the basis for one of the more prosperous minor industries, the manufacture of the devices used for this purpose. That these articles pass unmolested in interstate commerce and are freely sold in retail trade over the counter is well known. Other contraceptive materials that clearly fall within the scope of federal and state legislation are advertised in magazines and in the daily press in a language which can leave no one in the slightest doubt as to their implied purpose. The advocates of contraception openly boast of the ineffectiveness of the law, but in the next breath complain of persecution by reason of the existing statutes. Mrs. Sanger's statement in the first issue of the "Birth Control Review" (February, 1917, p. 4), "No law is too sacred to break," serves to characterize the present situation with regard to the laws on contraception.

*The Law on Abortion and Sterilization:* We have discussed abortion and sterilization from the medical point of view. Such a discussion is helpful to an adequate treatment of the subject of the prevention of conception. Hippocrates, the Father of Medicine, as early as 460 B.C. exacted of his pupils an oath, still known as the Hippocratic oath, that they would never abuse their trust by criminal practice. This became a tradition in the medical profession, and prevails to the present day. Yet the killing of the fruit of the womb has been widely practised from time immemorial and in all parts of the world, even in this country, with all its concern for child welfare. It has, however, never been openly sanctioned by members of the medical profession until these very last years, when in some European countries medical men have approved of abortion even in cases where there was not question of saving the mother's life at the cost of that of the child. In this country at least the bulk of the medical profession resolutely and unequivocally condemns "non-therapeutic" abortion, characterized as criminal, and refuses any shadow of association with those who practise it.

We discussed also the problem of sterilization, tracing its long history and the undue emphasis placed upon it as a means of preventing the multiplication of "undesirables." Sterilization was shown to be no solution of the related problems of the increasing number of defectives and the growing cost of segregation.

We are here concerned with the law that relates to these two subjects. With respect to abortion, there was considerable conflict of authority under the common law as to whether the offense could be committed before the quickening of the fetus.[1] It seems to have been more generally held that it was not an indictable offense at common law to procure an abortion before this state of gestation. After quickening, in some jurisdictions, the offense was considered only a misdemeanor. An opinion rendered in 1850 by a Pennsylvania court exerted considerable influence upon the attitude of the law on this subject. It was held in part that, "It is a flagrant crime at common law to attempt to produce the miscarriage or abortion of a woman because it interferes with and violates the mysteries of nature in the process of which the human race is propagated and continued. It is a crime against nature which obstructs the fountains of life. . . . The moment the womb is instinct with embryo life and gestation has begun, the crime may be perpetrated. . . . By the well settled and established doctrine of the common law, the civil rights of an infant in *ventre sa mère* are fully protected at all periods after conception."[2]

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[1] After there are recognizable movements of the fetus (about ninety days after conception), there is said to be "quickening."

With the advent of statutory law, distinctions continued to be made regarding the condition of the child and the consequent criminality of an abortion. In some States, a more severe penalty was imposed when the offense was committed after quickening than when committed before. Even to-day, the law is none too clear as to this distinction. The statutes of no less than fourteen States consider the commission of the crime after quickening as a circumstance of importance.

Under the common law the death of a woman resulting from acts performed for the purpose of procuring an abortion was treated as murder. The statutory law of the nineteenth and twentieth centuries has been relaxed in some cases upon this point, so that to-day the causing of the death of a woman through a criminal operation is in some States either second degree murder or manslaughter, while in others it is merely an element in the statutory crime of abortion aggravating the offense. Some of the statutes have dispensed with the necessity of pregnancy by providing that an attempted abortion shall be punishable whether the woman is actually pregnant or not. According to the statutes of the several States, pregnancy may or may not be necessary to make criminally punishable the use of means intended to bring about an abortion. Some States, for example, prohibit the administration of drugs to a woman "pregnant or supposed by the defendant to be pregnant." In these States it is immaterial whether the woman is pregnant or not. The requirement that the woman be proved pregnant is an obstacle to the suppression of professional abortion. It is extremely difficult to prove pregnancy, or to make use of women who are not pregnant for purposes of detection.

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[2] Mills *vs.* Commonwealth, 13 "Pennsylvania Reports," 631.

The laws of some States require that an actual miscarriage must follow the administration of drugs or the use of instruments. But fortunately the majority of the States do not require that the result shall be what the defendant intended, holding the latter responsible for the mere administration of a drug or the use of an instrument. Too few States have legislation definitely restricting the advertising of drugs, instruments, and other means for causing abortion and the giving of information concerning places where they may be procured.

Sixteen States hold the woman liable as a party to the crime, and subject usually to the same penalties as the person who performs the criminal abortion. To no small degree, the provisions of these statutes serve as a protection to the abortionist because fear of the law will prevent a woman from divulging what has taken place.

Sterilization is nothing new. It has been practised for centuries in a variety of ways. In its crudest form, castration, it was performed on the guards of the harems of the Near East, to avoid love-affairs between the inmates and the guards. Pope Benedict XIV, in condemning the practice of mutilation to preserve the soprano voice in boy singers, said, "The removal or mutilation of members of the body is never licit, unless there is no other means of saving the whole body from destruction." In recent years, the increase in the number of people relegated to institutional control has led many to favor this method of preventing births. The fallacy underlying this procedure was discussed in Chapter VI of this volume.

The first statute on sterilization in this country was passed by Indiana in 1907. Prior to that time there had been fifteen years of experimentation in different States. In 1894, experimentation began in institutions for the feeble-minded in Pennsylvania, and in 1901 an act was passed by both houses of the legislature of that State, but did not receive the approval of the governor. In 1898, fifty-eight boys were castrated in an institution for the feeble-minded in Kansas, and in 1899, four hundred and fifty-six male inmates of the Indiana Reformatory were sterilized.

All told, twenty-eight States have at one time or another enacted laws of this sort, but in a not inconsiderable number they have been repealed or allowed to lapse into actual nullification. New York State, for example, enacted a sterilization statute on April 16, 1912. On March 5, 1918, however, in the case of Frank Osborne *vs.* Lemon Thomson *et al,* it was declared unconstitutional by the State Supreme Court, on the ground that it denied the equal protection of law guaranteed by the Fourteenth Amendment of the Federal Constitution. On July 1, 1918, the Appellate Division confirmed this opinion. An appeal was pending before the Court of Appeals when the statute itself was repealed by the legislature.

At its first conference in 1921, the American Birth Control League declared one of its aims to be the "sterilization of the insane and feeble-minded, and the encouragement of this operation upon those afflicted with inherited or transmissible diseases, with the understanding that sterilization does not deprive the individual of his or her sex expression, but merely renders him or her incapable of producing children." No doubt the offensive and defensive alliance here implied between the advocates of contraception and the scientific and pseudo-scientific champions of mutilation has been satisfactory, since there have been repeated proposals that the Birth Control League and the Eugenics Society should be consolidated. It is entirely logical that they should be merged, since the prevention of human life plays so important a part in the program of each. No small number of individuals resort to vasectomy as a means of birth-prevention. It is reported by Gosney and Popenoe that more than half of a group of *sixty-five men admitted this as their motive for the operation.*[3]

Up to 1927, there was considerable likelihood that constitutional protection could be secured by any person in a custodial institution for whom eugenical sterilization was proposed. But on May 2 of that year, the Supreme Court of the United States in the case of Buck *vs.* Bell upheld the constitutionality of the Virginia sterilization law. The court held that the general declaration of the Virginia legislature warranted that grounds for the operation existed. Public welfare may exact human life, and could therefore logically require the lesser sacrifice "in order to prevent our being swamped with incompetence." The court went on to declare, "The principle that sustains compulsory vaccination is broad enough to cover cutting the tubes."

Directly following this decision a number of States enacted legislation similar to the Virginia statute, although three States—New Jersey, New York and Nevada—that had had earlier statutes declared unconstitutional by their respective courts have not passed other acts.

*The Enforcement of Legislation on Contraception, Abortion, and Sterilization:* The extent to which the legislation just discussed is enforced is a matter of conjecture. Important as the subject is, the President's Commission of the Enforcement of Law has carefully sidestepped it so far as one may judge from the reports that have been published or from the announcement of those yet to be released. Our institutes of human relations and the various groups concerned with the administration of criminal law, have done little to bring about enforcement of the existing statutes. Notable, too, is the fact that the two great national organizations, the American Bar Association and the American Medical Association, have never yet undertaken to study this field systematically, to say nothing of advocating corrective legislation. On the other hand, the constituent medical societies of the American Medical Association have frequently advocated repressive measures against criminal abortion. Valuable suggestions have come, notably from a New Orleans medical association which has proposed the following practical steps to put a stop to this social disgrace:

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[3] "Sterilization for Human Betterment," New York, 1929, p. 65.

1. Revoke the license of any one convicted of criminal abortion.
2. Make it unnecessary to prove the existence of pregnancy.
3. Punish those who induce the woman to take abortifacients.
4. Punish those who offer to sell, advertise, etc., medicines to produce abortion.
5. Punish attempts at abortion. The crime should be held complete when the drug is administered or the operation is performed, regardless of whether the woman or child dies or miscarriage results.
6. Make dying declarations valid.
7. Allow a physician in attendance to testify.

The Committee also adopted the following suggestions:

1. Making abortion and its cause a reportable disease as is now adopted in France, since last year.

2. To make pregnancy, with the expected time of delivery, reportable to the Board of Health.

3. That the profession extend respect and reverence to every pregnant woman, and discourage, privately and publicly, those who try to bring ridicule or contempt upon pregnant women.

4. To make it obligatory to teach medical jurisprudence and medical ethics in all medical colleges.

5. To guard the birth-rate of the nation by frequent discussions on this subject, by discouraging discussion on birth-control, as such discussion may tend to encourage criminal abortion.

The statutes of only seven States—Colorado, Indiana, Minnesota, Nevada, New York, Ohio, and Wyoming—specifically indicate certain exceptions in favor of physicians giving or prescribing contraceptives and information relating thereto. Assurance is given, however, by some who have reviewed the laws that physicians may legally give information concerning the prevention of conception in a majority of the States. This is doubtful in the absence of test cases. Thus the laws of Arizona, California, and Idaho, which might appear to cover advertising only, state that it is illegal "to assist in the accomplishment of such purposes."

The law in this vitally important field is not enforced in any effective way in the United States to-day. Once in a great while, a policeman may arrest a peddler caught selling contraceptive devices to high-school boys, and occasionally a district attorney may succeed in convicting a professional abortionist. The prosecutions for the circulation of literature dealing with contraception have grown fewer and feebler. Hardly any department of the Government takes into account the declared public policy of the nation with respect to this subject. The Patent Office blithely issues patents and trade-marks for all the devices and concoctions that this immensely profitable traffic can produce. And the Circuit Court of Appeals for the Second Circuit was called upon recently to determine the equities in a dispute over a trade-mark for condoms.

When the Post Office Department, the Interstate Commerce Commission, the Customs Bureau, and the other agencies of the federal Government concerned with communications and commerce see fit to bend their efforts to enforce the law as it exists on the statute-books to-day, it is conceivable that these instruments and the literature relating to their use may come under some form of really conscientious and strict regulation. Until then, however, there is no hope of enforcement by either the nation, the State, or local police authorities.

## CHAPTER XIX

# THE LIFE OF THE STATE

WE have seen the law in the United States on contraception, abortion, and sterilization and the slight extent to which it is at present enforced. We have observed how incomplete is the legislation and how little machinery exists for its effectual enforcement. We have not attempted to point out how this legislation could be improved or supplemented, although in one or two instances we have indicated the obvious necessity for the enactment of legislation to eliminate the national disgrace of practically unpunished abortion.

We are led in this concluding chapter to raise the whole question of public policy. One interested in the welfare of the nation will ask himself: (1) Have we a population-policy? (2) What is the State's responsibility?

*Have We a Population-Policy?* Any act of government which affects the well-being of population may be classified as an element of population policy. Sanitary regulations are obviously part of a program to improve the public health, lower the infant mortality rate, and otherwise make life more easily entered and longer retained. A fiscal policy that imposes certain types of taxes, the consequence of which may be the encouragement of larger or of smaller families, is clearly another element of population policy. When political reformers see fit to alter the laws governing the inheritance of land so as to reduce the size of individual parcels, they are engaging in acts of population policy. The most obvious element is the increase or restriction of population growth by the laws that govern immigration and emigration. Limiting immigration aims to prevent the growth of population by means other than natural increase. Restriction of emigration encourages the growth of the country through retaining elements that might be lost. Even the absence of restriction constitutes a direct evidence of population policy. No government of consequence in history has existed without at one time or another limiting immigration or conversely endeavoring to attract foreign settlers.

The United States has a population policy and has had one from its origin. The Colonies and the Confederation possessed a population policy. The government attitude throughout the eighteenth and nineteenth centuries was to encourage the growth of the population by all normal means. Adult Europeans were desired, ready at once to become full-grown economic units and to assist in the development of the sparsely settled country. It was thought that the growth of families through natural increase would one day make unnecessary further encouragement or even toleration of immigration. Yet the nineteenth century saw the enormous area of the republic more and more widely developing through the application of technical processes and the expansion of foreign and domestic markets. It was apparent that the nation could absorb a far greater immigration than had been previously imagined. Population policy, as a consequence, took the form of an elaborate and detailed encouragement of immigration on a very great scale, through the institution of an immigration service, the enactment of much supervisory legislation, the homestead laws, land-grants for railroads, and other factors in economic exploitation. The tariff legislation itself, that long and complicated chapter in the history of our economic policy, aimed to develop the home market. This in turn rested on the assumption that the home market would expand ceaselessly and that the structure of economic development would have an ever-increasing number of producers and consumers.

Such legislation as we possessed on marriage, divorce, abortion, obscenity, and contraception was designed to maintain the traditional institutions upon which society depends. As we have pointed out in the preceding chapter, federal action in this direction was originally taken in the form of the "obscenity act" of 1873, which has been built up and perfected through the intervening years. That this law and other statutes, such as those relating to abortion, have not been effectively enforced, is not itself an indication of a change in policy on the subject of population. Now and then, but all too rarely, public prosecutors show unwonted activity in clearing their jurisdictions of malpractitioners engaged professionally in criminal abortion. Now and then, also, a President such as Theodore Roosevelt will direct the enforcement of a statute against the traffic in contraceptives and a federal judge will impose the punishment fixed by law on those engaged in this business.

In summary it may be said that the United States definitely has a population policy. This policy, although in recent years undergoing some change in emphasis, has always been concerned with the insurance of national integrity and progress through the maintenance and expansion of population. The advocates of restriction would now prevail upon the nation to depart from this traditional policy, so intimately bound up—as the preceding pages of this volume have sought to demonstrate—with its material and cultural development.

They are challenging the policy of this country since its inception, and demand that our Congress and our State legislatures place a positive seal of approval upon a *new* policy, one of population restriction. Here is a minority who find many reasons for what they advocate. But they fail to take into consideration the historical background upon which the present policy and the existing legislation rest. They contend that their program is more beneficial than the one they aim to supplant. Many of them go further and assert that the future can have no hope unless their recommendations are adopted.

Their insistence, however, is a mere assertion. The burden of proof that rests upon them grows heavier each day as relevant statistical and biological data are assembled and analyzed.

*What is the policy of other countries regarding contraception?* On July 31, 1920, France, long noted as the country in which birth-prevention was extremely prevalent, adopted a statute imposing from one to six months' imprisonment and correspondingly heavy fines upon those convicted of the sale or distribution of anything designed to promote the prevention of human birth.[1] The serious damage done by a century of official indifference to the systematic propaganda of neo-Malthusianism now faces this republic. To repair the damage promises to be a long and painful task.

Great Britain, the cradle of birth-prevention both in recent theory and in practice, has had no legislation dealing with birth-control propaganda. Unsuccessful attempts have been made to secure legislation for the diffusion of such propaganda by public-health officers. In the face of such attempts, a government commission has made an intensive study of the question over a period of years.[2] Its report was adverse to the contentions of neo-Malthusian enthusiasts.

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[1] For the text of the law, see M. T. Nisot, "La Question Eugènique dans les Divers Pays," Brussels, 1927, Vol. 1, p. 503; and in these volumes (the second appeared in 1929) detailed references may be had for most countries.

[2] The National Birth Rate Commission; two reports, published under the titles, "The Declining Birth Rate, Its Causes and Effects," London, 1916; "Problems of Population and Parenthood," London, 1920.

In the Netherlands a definite reaction has set in against birth-prevention and the maintenance of clinics for this purpose. A league opposed to the new Malthusianism is at the present time a big factor in crystallizing sane public opinion. It is not unlikely that within a few years public control of all such traffic and propaganda will be provided by the parliament. There is a bare surplus of births over deaths in Holland to-day; and the economic life of the country will soon show the effect of this.

The German Government recently appointed a commission on population to survey the causes and effects of the decline in the birth-rate. Some states of the Reich have already forbidden public lectures on the subject of birth-prevention.

The population policy of the present administration in Russia has been to legalize abortion, and to stimulate the circulation of contraceptive information. Despite the fertility of the Russian peasant classes, this policy has caused the surplus of births over deaths to drop very rapidly in recent years. The leaders have been motivated both by their determination to stamp out the old religious faith of the Russian people so that the religion of Communism might be more fully accepted, and, in addition, by the immediate necessity to meet the rigid demands of the Five Year Plan. The ultimate results, in the light of sound economic principles, may well prove to be catastrophic.

At the opposite pole to Russia in public policy in this field is Italy. The Fascist régime has steadily advocated a policy of population growth, and the legislation of the country has become steadily sharper in its punishment of neo-Malthusian traffic and propaganda.

Australasia for a full generation has been concerned with the problem. As far back as 1904, the Royal Commission on the Decline of the Birth Rate unequivocally condemned the practice of contraception on the grounds of public health and demographic policy.

The leaders in countries all over the world are becoming more and more aware that their national life is menaced by a movement that may mean their national death.

*What Is the State's Responsibility?* Many advocates of contraception claim that it is solely the concern of the individual. "Let each man's conscience be his own guide!" say leaders of the movement. "We have no desire to inflict our ideas on any one else. All that we wish is to remove outmoded and misplaced restrictions so that every one may seek happiness in his own way. There is no analogy to the Eighteenth Amendment. Such legislation as is proposed would not forbid children; it would concede that every married couple has a right to have or to refuse to have children according to its wishes, and make it possible to act accordingly."

This persuasive but fallacious contention has won support for proposals to relax the law from some who themselves do not at all favor contraceptive practice. "Live and let live" is their philosophy.

But can the philosophy of a state rest upon entire indifference as to whether its population increases or declines? In this case it is not solely a question of the individual conscience. There is question also of public order. There is indeed a question of conscience—a whole chapter has been devoted to the intrinsic evil of contraception.[3] Contraception is in its essence contrary to the natural law and therefore always and under all circumstances wrong. *But contraception is not alone a matter of conscience—it has fundamental and most weighty bearing on public welfare.* As has been said, no state may stand sponsor to its own demise. But a program that would erect the two-child family as the national ideal, and crown it with the halo of public sanction, spells the extinction of the nation in a few centuries. Is this a matter solely of the individual conscience?

The two-child family foreshadows economic and industrial revolution. Should the state stand idly by, waiting until disaster overtakes her? Should she—more accurately—hasten calamity by removing all obstacles to its approach? Should she yield to merely emotional propaganda? Has she not a duty to herself and to her people, even to those very ones who, sincere though uninformed, are crying most loudly for the means to their own destruction?

The state cannot be indifferent to the health of its people. Can it be said that contraceptive practice is certainly free of results gravely prejudicial to health? Many who speak with authority do not believe that this is so. And here is no question of private conscience.

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[3] Chapter XVII.

The state has a serious obligation to see to it that those general social conditions which so greatly influence the lives, the character, the happiness, of the members of society are as admirably ordered as possible. Contraceptive practice, the sister of abortion, the handmaid of divorce, the boon companion of sexual license and venereal disease—can the state, in justice to her people, say, "This is no concern of mine"?

If health, if prosperity, if order, if morality, if its own life, is the business of the state, then birth-prevention is not subject solely to private judgment but is as well a vastly important matter of public policy.

# *Appendices*

## QUESTIONNAIRE ON CONTRACEPTION AND RELATED MATTERS SENT TO PHYSICIANS OF THE UNITED STATES

1. Are physicians cognizant of any other factor than contraception on an increasing scale which could explain the decline in the birth-rate? That is to say, do studies of the relation between sterility and diet, and between sterility and neuroses directly attributable to the accelerating speed of modern life, point to a gradual limitation upon fertilizability (capacity to be fertilized)?

2. What proportion of couples are ordinarily found to be childless by reason of sterility, involuntary or voluntary, such as

   (a) absolute sterility of the male or female, either temporary or permanent?

   (b) conditions resulting from abortion or like causes?

   (c) voluntary avoidance of parenthood through the use of contraceptive measures or devices?

3. How many women over thirty years of age who have had one or two children have no more on account of physiological disability (that is to say, in no way because of contraception)?

4. In Europe, according to some authorities, every other pregnancy is a failure, the principal cause being induced abortion not necessary for medical reasons. Is this true of the United States?

5. Can institutional data on abortion and like matters be regarded as substantially a reflection of the situation met in private practice by the individual physician?

6. Are cases observed in which the use of contraceptives, mechanical or chemical, or contraceptive measures, has wrought any *physical* or *physiological* damage? Of what sort? Do the means exist for estimating the extent of the morbidity resulting from such devices or practices?

7. Are there neuropathological cases attributable to the use of such devices or practices? Is the fiber of the typical man and woman of to-day affected unfavorably by nervous imbalance traceable to the avoidance of parenthood?

8. How far, as the physician sees it, is the avoidance of parenthood due to the cost of child-bearing? Is that cost increasing (as compared with 1925 and, say, 1909 or 1915)? Is the cost of rearing children a big factor ? How far do housing conditions affect the situation?

9. Of the couples avoiding parenthood, what proportions: (1) fear to transmit physical defects to offspring; (2) fear the physical effort of childbirth; (3) fear a struggle for existence for any offspring because they take for granted the overcrowding of the next generation; (4) prefer not to give up comforts or distractions in order to raise children?

10. Deaths from premature birth among very young infants appear to be on the increase. Having in mind questions 1, 2, 7, and 9, is it fair to imagine a relation between this cause of death and some obscure deterioration of female fiber and resistance?

## SOME REPLIES TO THE QUESTIONNAIRE

A few of the more interesting replies to the question relating to the consequences, both physiological and psychological, of contraceptive practice are given here, with geographical sources indicated.

*From New York:* Some cases of chronic cervicitis with erosion.

Many cases are observed in which stem pessaries cause physical and physiological damage, endocervicitis, parametritis, etc. However, no definite means exist for estimating the extent of such morbidity.

*From Virginia:* I believe, but have no absolute proof, that continued use of contraceptives does physiological damage.

*From Ohio:* Change in vaginal mucosa, sterility, and nervous disorders.

*From Massachusetts:* Pelvic infection with its organs is a common condition found following the above practice.

I have seen patients that I felt had injured the mucosa of the vagina and cervix by use of either mechanical or chemical contraceptives but could not prove it.

For psychologic reasons the method may interfere with normal full function and lead to chronic pelvic congestion.

*From Rhode Island:* There are cases observed. They necessitate mutilating operations for removal of diseased organs. Again, they induce sterility by pathological changes in the genital and pelvic organs.

*From Pennsylvania:* I should say that very definite conditions have been observed following the use of all types of contraceptives, as well as contraceptive measures. Any type of intrauterine occlusive stem pessary may cause irritation and infection in the uterus, especially if it is not introduced under the most aseptic conditions. The same may be said of ill-fitting, unclean, vaginal pessaries used for this purpose. Douches containing strong chemical substances may of course cause local irritation as well as absorption of some of the poisonous substances used in the douche. The ill effects of condoms and coitus interruptus may depend upon a number of factors. These would be physical as well as psychic. It is my impression that means do not exist to estimate accurately the extent of the morbidity resulting from contraceptive devices.

*From Illinois:* Yes. Hysterectomy for imbedded stem.

Infections due to stem and subsequent operations for tubal diseases.

No means exist of estimating extent of injury. But one must assume that the engorgement resulting from coitus and not interrupted by normal pregnancies will finally lead to chronic stasis, especially evinced by increase in amount and duration of menstrual flow.

*From New York:* There have been observed cases in which the use of mechanical and chemical contraceptive measures have caused physical damage. However, to my knowledge the morbidity incidence has not been determined and we have no method of determining the character or degree of pathology.

*From Michigan:* The only results I have noted have been on the nervous system, excepting an occasional vaginal and cervical irritation from the use of too strong antiseptics. I know of no way to estimate the extent of morbidity.

*From Ohio:* Yes. Such measures lead to sexual excess, which weakens the male contribution.

*From Kentucky:* Yes; catarrhal changes both in the endometrium and in the tubal mucosa may be produced by the use of contraceptives. I do not believe that the extent of the morbidity resulting from such practice can be accurately estimated.

*From Chicago:* Chemical measures have produced marked changes in the vaginal canal in two patients, in one causing atresia. Mechanical appliances of metallic type have produced many changes, both physical and physiological.

Among them may be mentioned cancer sepsis of severe type, and erosions predisposing to cancer, requiring operations to remove them from the uterine cavity.

In other cases no changes have occurred. In fact, three patients have been delivered where the stem pessary was found in the placenta.

*From the Veteran Chief of the Department of Obstetrics in a Great Medical School:* There would seem to be no question but that the use of contraceptive measures of various sorts in many cases results in abnormal conditions of the pelvic organs which render future conception unlikely and in some cases impossible. I know of no means to estimate the morbidity of such cases.

*From a Distinguished European Gynecologist, Member of an American Society of Specialists:* (a) Yes. (b) Neurotic and psychic change; general toxic effects from mercury, lysol, local inflammation, mechanical injury, infection.

*From New Jersey:* In women that have continued the practice of birth-control before any pregnancy, one can commonly observe a severe endocervicitis and enlarged ovaries. I have no religious preconceived notions about this. Women who have entered marriage bed in good health, often become disturbed by pelvic pain, excessive menstruation and often premenstrual pain. The same does not seem to hold good with multiparæ, who apparently do not suffer likewise. I somehow have the impression that the fact that multiparæ have intercourse less frequently than the newly married accounts for the absence. I have no means of knowing just how many suffer thus. It would lead to a study of a very much larger number than I can look over at present.

*From New York City:* I have seen cases in which contraceptive measures, chemical or mechanical, have wrought a great deal of physical damage. The largest number of cases, perhaps, would relate to chronic endometritis. Septic tubal diseases with peritonitis as a complication we all see from time to time. Occasionally a vaginitis or an atresia follows the use of strong antiseptics, or germicidal douches, which are used as contraceptives.

# REPORT OF THE PUBLIC HEALTH RELATIONS COMMITTEE OF THE NEW YORK ACADEMY OF MEDICINE[1]

The New York State Penal Law, under Section 1145, exempts physicians from the provisions of Section 1142 by stating:

> "An article or instrument, used or applied by physicians lawfully practising, or by their direction or prescription, for the cure or prevention of disease, is not an article of indecent or immoral nature or use, within this article. The supplying of such articles to such physicians or by their direction or prescription, is not an offense under this article."

Many physicians are not aware of this exemption. In this regard, the Committee desires to call attention to the fact that, without violating the letter of this law, its violation in spirit may easily be effected by one who, being a licensed physician, endows the word "disease" with its broadest meaning. Such interpretation may well be fraught with consequences which the law does not contemplate and which we believe to be deprecated by enlightened medical and lay opinion. For these reasons those institutions where contraceptive advice is given must be so supervised that the spirit of the law, as well as the letter, will be given due consideration.

In the judgment of this Committee, the public is entitled to expert counsel and information by the medical profession on the important and intimate matter of contraceptive advice. Owing largely to the negative attitude of the profession and to the lack, until recently, of any scientific research in this field, extra-mural clinics have been stimulated by organizations interested primarily in birth control. Recently, however, clinics for giving contraceptive advice have been established in several cities in connection with hospitals or under the direct control of recognized medical bodies. In New York City there are nine hospital clinics of this type. Their combined attendance, however, is very much smaller than that of the Birth Control Clinical Research Bureau.

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[1] Published in the "Bulletin" of the Academy, April, 1931, Second Series, Vol. VII, No. 4, p. 303.

The modern tendency in clinic organization is away from detached dispensaries. The so-called unattached clinics are gradually being abandoned and the work taken over under the direction of the hospital. It is for this reason that the work of the medical group at the Birth Control Clinical Research Bureau can only be regarded as a temporary addition to the clinical resources of the community until such time as this work be taken over entirely by recognized hospitals and clinics, and by the profession in private practice.

Contraceptive clinics might prove to be health examination stations of great importance. Lacerations, erosions, and displacements, calling for treatment or operation, are many and are frequently overlooked. It is imperative, therefore, that the physicians in charge of birth control clinics ought to have had training in gynecological work in order to be qualified to direct or to refer patients to have cervicitis cured, injuries repaired, or displacements corrected. This service likewise offers opportunities for the detection of early cancer of communicable disease. All the contraceptive clinics should be under adequate medical supervision and should be regularly inspected by experienced gynecologists and obstetricians.

The conservatism of the medical profession with reference to contraception has been justifiable. Recent research in contraceptive technique, however, now demands recognition on the part of the profession of medicine. The guidance of the public in sexual matters should be assumed by the medical profession wherever it naturally comes within the scope of its work. It is likewise worth emphasizing that because of their present detachment from recognized agencies, the existing extra-mural clinics should have the benefit of the expert advice of recognized medical groups. The absence of education of the public in sexual matters by the medical profession is medieval; it is to be deplored, and efforts should be made to change the present attitude of physicians.

### *Recommendations*

1. The New York Academy of Medicine, as a medical organization, should be concerned solely with the medical and public health aspects of birth control, and not with its economic considerations.

2. The contraceptive clinics already in existence in the various hospitals, and operating within the law solely in the interest of the health of the individual, should be continued, and all institutions in which this service is required should organize similar clinics as integral parts of dispensary and hospital service.

3. All extra-mural clinics, when their existence is temporarily justified, should have a medical personnel of competent physicians with especial training in gynecology; the clinics should secure the services of local gynecologists and obstetricians of recognized standing and authority to serve in an advisory capacity and to formulate and enforce suitable rules and regulations concerning the medical indications for the giving of contraceptive advice and to make regular

inspections to see that these rules are observed. Efforts should likewise be made on the part of these extra-mural clinics to obtain the services of experienced physicians in the several branches of medicine to aid the staff in the diagnosis and conduct of the more difficult cases. The extra-mural clinics, if so safeguarded and supervised, should receive support of the medical profession only until a sufficient number of hospital clinics has been developed to meet the public health demand.

4. A movement should be begun to include in the curriculum of medical schools, instruction in modern contraceptive measures and in the indications therefor. The hospital clinics should likewise be asked to offer similar instruction to practising physicians.

# SPECIMEN RESOLUTIONS ADOPTED BY AUTHORITATIVE MEDICAL SOCIETIES

## The Medical Society of Ulster County, Kingston, N. Y.

### *Resolution: re: Birth Control*

Whereas there is reason to believe that there will be introduced in the 1928 New York Legislature a bill for the legalization of birth-control teaching and practice, and,

Whereas, the practice of birth control in this country during five years, 1921-1926, reduced the birth rate 2.4 to the 1,000 of population which means 250,000 babies per annum who will never be American citizens, and this in the face of laws forbidding its teaching and practice which the proposed birth-control bill would legalize, and,

Whereas, a woman's civic organization in New York has, upon a referendum vote, declared its intention to endorse such a bill, provided it "limits the transmission of such knowledge to married persons and married persons only," and provided, also, that it receives the endorsement of "such distinguished medical groups as the Committee on Maternal Health and the Academy of Medicine," and,

Whereas, wisdom suggests and experience hath shown that prohibition of the dissemination of such knowledge among the young is futile and that the utilization of such knowledge by married persons tends to disrupt the home, which is the unit of society; that it is wasteful to the man-power of the State and is destructive of respect for marriage, upon which society and the State depend for solidarity, and,

WHEREAS, the people cannot know, unless we tell them, that the Committee on Maternal Health is a self-constituted organization and the New York Academy of Medicine is merely an exclusive group of medical men and that neither of these organizations proceeds from or has authority to represent organized medicine or the thought of the medical profession, but are separate and distinct from the County, State and National Medical Societies,

THEREFORE BE IT RESOLVED, that the Medical Society of the County of Ulster, in meeting assembled February 7, 1928, declares its opposition to the introduction and enactment of a birth-control bill in the New York Legislature and urges its members wheresoever they exert influence, in homes, in organizations, and upon the minds of their representatives in the Senate and the Assembly to stimulate opposition to these measures which do violence to the spirit of this nation, and,

BE IT FURTHER RESOLVED, that copy of this resolution be sent to the Governor and to the Presiding Officer of the Senate and of the Assembly, and to every County Medical Society in the State with request for consideration and action and to the press.

These resolutions adopted as given by the Ulster County Medical Society, February 7th, 1928.

F. H. Voss, M.D., *Secretary*.

### MEDICAL SOCIETY OF THE COUNTY OF KINGS

On Tuesday, March 19, 1929, the Medical Society of the County of Kings, representing 2,000 active physicians of Brooklyn, unanimously condemned the Remer and similar birth-control bills. The meeting was held at 1313 Bedford Avenue. Dr. Thomas M. Brennan presiding. The resolution was offered by Dr. John J. O'Reilly and seconded by Dr. John D'Albora. It was as follows:

WHEREAS, year after year bills have been introduced in the New York Legislature providing for a change in the public policy of the State with relation to birth-control, either by repealing Section 1,142 of the Penal Law which defines articles and appliances, etc., for this purpose to be obscene and providing punishment for their sale, distribution or use; or by the repeal of Section 170(d) of the Public Health Law which forbids doctors violating the provisions of Section 1152 of the Penal Law or abusing the privileges accorded them by Section 1145 of the Penal Law, and,

WHEREAS, the New York City Federation of Women's Clubs sought, by questionnaire, to secure endorsement of a birth-control bill in the 1929 Legislature from members of the medical profession and boasted of a number of affirmative replies, and,

WHEREAS, it is reasonable to believe that effort will be made to secure endorsement of a birth-control policy at the 1929 meeting of the Medical Society of the State of New York, therefore be it

RESOLVED, that the Medical Society of the County of Kings, in meeting assembled March 19, 1929, reiterating its opposition to any change in the public policy of the State which will modify or nullify Sec. 170(d) of the Public Health Law or Sec. 1,142 of the Penal Law, or that will amplify the privileges contained in Sec. 1,143 of the Penal Law, or that will write the policy of sterilization of the sick or unfortunate citizens into the law of the State of New York, hereby instructs its delegates to the annual meeting of the Medical Society of the State of New York to present thereat, and work for the adoption of, the following resolution:

Resolved, that the Medical Society of the State of New York, in (1929) meeting assembled, declares its opposition to the introduction or enactment of any law that will change the policy of the State of New York in the matter of birth control or sterilization or so amplify the police power of the State as to threaten the money or man-power of the State, or its physical, moral or economic security, or the safety of its citizens, or to disturb the safeguards thrown about the practice of medicine in the State of New York as contained in the Medical Practice Act, and be it further

Resolved, that copies of this resolution, in its entirety, be sent to the New York State Journal of Medicine and to the public press with a request of this body for publication: to the Medical Society of the State of New York with the request of this body for the adoption of the contained resolution, and (by the secretary of this society) to be sent in December, 1929, to the Governor of this State and to the presiding officers of the Senate and the Assembly of the 1930 Legislature, and be it further

Resolved, that copy of this resolution be sent to every county Medical Society in the State of New York with the request of this body that they take similar action to the end that a united front may be presented against those who may seek to make the medical profession the agency of lust through birth control and sterilization.

# SOME OTHER MEDICAL OPINIONS ON CONTRACEPTION

In his book, "The Effect of Contraceptive Practices on the Female Sexual Organs," Frederick J. McCann, M.D., F.R.C.S., observes:

"It is not difficult to imagine that when the female is deprived of the nutritional value of spermatic fluid by methods of contraception during the sexual act, both local and general changes are produced in her body. In short, the seminal fluid must not be looked upon as a mere fertilizing agent, for all recent research goes to support the view that it is capable of producing far-reaching effects on the metabolism of the female. I refuse to believe that in the human species this complex chemical solution—the seminal fluid—containing millions of spermatozoa, has no other function than that of providing one spermatozoön for the fertilization of the ovum. The chemical composition of the ovum, of which practically nothing is known, still requires to be investigated.

"Coitus deprived of the physiological value of the male secretions is closely akin to masturbation. Masturbation if long continued by the female does produce enlargement of the uterus and increased menstrual and intermenstrual discharge; and if spermatic fluid had no value other than that of a fertilizer, the same results should follow certain contraceptive practices; but there is, in addition, the psychical effect of sexual union which must not be overlooked, for it plays a most important part in determining the intensity of the local and general bodily reaction.

"The metabolic effects of normal sexual union are shown by the great improvement in her health and bodily vigour when a woman is suitably mated.[1] There is, moreover, development of the mammary glands, whilst there may also be an improvement even in her psychology.

"Sooner or later a woman deprived of the full physiological value of sexual union develops important changes in her genital organs. Many years ago I drew attention to these changes in my lectures at the old Medical Graduates' College and Polyclinic. The changes produced in the uterus cause a slight uniform enlargement, with uniform softening of the cervix and body, which I named 'the Malthusian uterus,' increased loss of blood at the menstrual periods, increased mucoid discharge during the menstrual intervals, together with a certain amount of backache and pelvic discomfort. Irregular menstruation would appear to be common in women who practise contraception and must be well known to all those who treat female ailments. These changes in the uterus are produced where the female obtains sexual excitation but is bereft of the physiological value of the seminal fluid. Moreover, the psychical effect of contraception,, which must never be overlooked, often culminates in dissatisfaction, disappointment, and ultimate disgust.

"These psychical effects when concealed by the woman exert an injurious influence on her nervous system, for few women will admit dissatisfaction or disappointment, still fewer will admit disgust. The woman struggles on determined to hide her secret until neuroses, neurasthenia, or even a complete nervous breakdown compel attention. To show the influence of normal sexual life, I was recently consulted by a woman who had undergone the operation of uterine fixation. The result of this operation was that sexual pleasure was destroyed, and in consequence this woman developed an anxiety neurosis because she believed she was, in her own words, 'no longer any good to her husband.' "

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[1] McCann, "Female Sterility and the Ductless Glands," "Practitioner," 1925, Vol. CXIV, pp. 258-66.

## E. HEINRICH KISCH, M.D., IN HIS BOOK "THE SEXUAL LIFE OF WOMAN," SAYS:

"The prolonged practice of coitus interruptus leads in my experience—in addition to the injury to the nervous system as a whole in consequence of the intense hyperæmia of the uterus and the uterine annexa, unrelieved by the occurrence of the orgasm—to a condition of stasis in the female reproductive organs; and this ultimately passes on into chronic metritis (with relaxation of the uterus, retroflexion or anteflexion, catarrhal disease of the mucous membrane, erosions, and follicular ulceration of the portio vaginalis), oöphoritis and perimetritis. As a result of certain remarkable observations, I must even regard it as not improbable, although actual proof is still lacking, that the recent striking increase in the frequency of neoplasmata of the female reproductive organs is causally dependent on the ever-increasing employment in all circles of society of means for the prevention of pregnancy.

"Ribbing writes, 'Although the sexual impulse is the product of a powerful natural developmental force, still the temporary, and sometimes even the permanent, control of this impulse is a moral civilizing force of enormous importance.' This writer is opposed to the use of artificial preventive measures; he considers them untrustworthy and dangerous to health. Untrustworthy, for the reason that nature has endowed living organisms with a strong impulse toward conjugation and has equipped with very powerful forces the processes by which fertilization is effected. Every physician is familiar with cases in which preventive measures have proved ineffective. This fact is proved also by the statistics of prostitution. Although prostitutes are fully instructed in the use of preventive measures, which they almost universally employ, nevertheless every year a smaller or larger number of prostitutes become pregnant. These measures are dangerous to health, partly because of their interference with natural functions, because many of them are clumsy and ill adapted; and partly, again, because owing to their use the woman fails to enjoy the natural periods of repose which are entailed by pregnancy, parturition, and lactation. Noteworthy also are the psychical considerations adduced by Ribbing against the use of preventive measures. . . .

"Max Nordau also insists on the moral disadvantages of the wide diffusion of the use of preventive measures. 'If a race or nation has reached this point in its downward career, the individuals of which it is composed lose the capacity of loving in a healthy and natural manner. The sense of the family disappears; the men will not marry, because they find it inconvenient to burden themselves with the responsibility for another human life, and to care for any other creature than themselves; the women dread the pains and inconveniences of motherhood, and if they marry, they endeavour, by the employment of the most immoral means, to ensure barrenness. The reproductive instinct, of which reproduction has ceased to be the aim, is in some annulled, whilst in others it degenerates into the most peculiar and irrational perversities. The act of sexual union, the most sublime function of the organism, is degraded into a profligate act of lust; it is no longer undertaken in the interest of the perpetuation of the species, but exclusively for the pleasure of the individual, and without any relation to the needs of the community.' "

### HALLIDAY SUTHERLAND, M.D., DECLARES:

"Contraception is unphysiological because, apart from preventing pregnancy, it inhibits far-reaching physiological processes which result from normal intercourse, by reason of the absorption of certain vital substances which have a beneficial influence on the metabolism and health of the female. Since there is no known method of birth-prevention whereby pregnancy can be avoided without hindering or prohibiting this beneficial absorption, the practice of contraception is unphysiological. Experiments on rabbits have shown that when the female is subjected to truncated intercourse there are subsequent pathological changes in the organs of generation. It is therefore not surprising that the majority of gynecologists should have reached the conclusion, from clinical observation, that contraception is a cause of sterility, or neurasthenia, and of fibroid tumors in women. So far from being beneficial, contraception is positively harmful to women."

### DR. FOERSTER, FAMOUS GYNECOLOGIST OF ZURICH, SWITZERLAND, STATES:

"In every direction we see man subordinating nature to his own intellect and will, so why should he not make use of technical science in the sphere of sex relationships, where so many important interests are at stake?

"These arguments are sufficiently plausible to be in the highest degree dangerous. Yet it is easy to reply to them. In the first place, we readily admit that the sphere of sex should be subjected to the human spirit; nay, we might go further and even define sexual ethics as the complete subordination of our sexual conduct to our life as a whole, with all its fundamental interests and responsibilities. But nothing could be more radically false than to imagine that the methods of Neo-Malthusianism mark an advance in the subordination of nature to the spirit. It must be obvious to every thinking person that precisely the opposite is the case. The perfection and popularization of these practices will not assist men to master their instinct and passions, but will on the contrary make it easier than has ever before been the case for man's sexual and animal self to dominate the will and spirit. For the artificial prevention of conception does not in the least control or discipline the sexual feeling itself. It merely frees it from producing its normal results: and it is these very results which have, in the past, so powerfully contributed towards self-discipline and self-control. Remove the proper and natural consequences of sexual intercourse, and a controlling factor of the first importance has been eliminated. We may therefore assume with the utmost confidence that the subjection of men and women to their sensual passions will rapidly increase with the increase of Neo-Malthusian practices. It will increase, moreover, for this further reason that the prevention of conception causes the sex instinct to concentrate itself, in a most unwholesome and dangerous manner, upon mere barren pleasure: here we have naked sensuality, stripped of all the nobility, sanctity, and responsibility which attach to the normally directed sexual impulse, associated as it is with creation. Those who are today recommending the practices to which we refer, have not the remotest idea of the slippery downward slope upon which they have set their feet. Once let people begin with deliberate scientific purpose to pick out the element of pleasure from sexual activity as a whole, while neglecting its true meaning and purpose in our lives, then there remains no reason why the pleasure itself should not be enhanced by scientific means. It is no accident that this enhancement is most extensively practiced in the identical country in which the artificial restriction of the family has been most generally adopted.

"But it will be asked: Is not the liberation of women from the burden of excessive motherhood a great success on the part of Neo-Malthusianism? It is only an apparent success. In reality it is women, in particular, who will be the sufferers through anything which increases sexual irresponsibility in men. Even the most excessive production of children could not endanger women so greatly or so deeply undermine the true necessities of their existence, as will the artificial restriction of the family. The male sex passion, when relieved from all sense of responsibility and from the necessity for periods of self-control, when artificially liberated from the natural consequences which lend it meaning and dignity and link it to the purpose of life as a whole, will necessarily become more pleasure-seeking and more recklessly selfish than it could be under normal conditions. The result will be an increase in every sort of disloyalty and irresponsibility in men. This will not fail to make itself felt at those times when the wife is least able to respond to the claims of a desire for pleasure, and in cases of illness when she doubly needs her husband's undivided affection. The situations which will necessarily arise from the man's sexuality being exclusively directed towards sensual gratification and being unaccustomed to control, will far surpass, in tragedy, sordidness, and poisonous consequences, anything which could possibly arise from the most unlimited childbearing. Moreover, immoderation in this last respect can be met only by an increasing spiritualization and control of merely sensual passion, and never by methods which degrade and brutalize the sex impulse itself. It is true that these artificial methods may momentarily relieve much suffering. In the long-run, however, according to their own inner nature, they must increase the sum total of human suffering in every sphere of life—for their effect is immeasurably to increase the subjection of man to passion and artificial sensuousness. This effect will be felt not only in the sensual sphere. It will spread to all other departments of life.

"We may therefore feel absolutely certain that along these lines there can come nothing but injury to the human race—even if it were assured (which is far from being the case) that these methods would result in the birth of none but the most desirable children. Moreover, this result presupposes a superhuman degree of responsibility and selflessness, the very qualities, it will be observed, which will most suffer under the Epicurean philosophy which stands behind the artificial restriction of the family! While speaking of the question of racial health we may remark that it should never be forgotten that not only in the case of the individual but in that of the race, too, the strengthening of character, and the establishment of the spirit as ruler over the body, is the foundation of all health. For this reason, a married life in which all motives for the overcoming of self have artificially been eliminated must necessarily lead in the direction of racial degeneration.

"It is a main argument of the Neo-Malthusians that the prevention of conception is no more than a continuation of the great process of civilization—the subjection of nature to reason. This is a piece of pure sophistry. In the foregoing remarks we have already pointed out that the artificial restriction of the family is anything but a triumph of the spirit over natural forces. It is merely a mechanical prevention of certain natural consequences of these forces, and it must contribute towards subjecting man still further to the dominion of these forces, since it removes those important restrictions which nature itself has set in the way of natural sexual impulses. We do not go so far as to assert that married people should not come together unless they have the intention and possibility of producing a child; genuine love is an equally justifiable motive for the consummation of their passion. But the conscious, deliberate prevention of conception brings an entirely new factor into the whole sex-relationship. It introduces an element of technical routine into that which should be as far removed as possible from all routine; it represents a concentration upon the mere mechanism of sexual love—a side of life which should be veiled over with a spiritual garment and not be dragged forward into the forefront of consciousness and made the object of a special technique. Practices of this kind cannot be carried on without a gradual coarsening and disintegration of feeling, in consequence of which (especially in the man) sensibilities will be dulled which can hardly be described in words, but which are of decisive importance for the whole spiritual and moral nature, particularly on the sexual side. In the sexual organization of the man there is always a danger that the mere impulse towards sexual gratification will break loose from all other physiological and spiritual aspects of sexual life. All deeper masculine education—not least man's education through womanly feeling—has tended to restrain the merely sensual element and to unite the brute instinct with a whole world of higher sensibilities which veil it over and place it more or less in the mental background. But what is the part played by the artificial prevention of conception? It drags this brute element, this thirst for mere sensual gratification, away from its spiritual and moral associations, its great redeeming and sanctifying influences, thereby producing a spiritual injury of incalculable seriousness—an injury the very essence of which is the liberation of the natural from the controlling spiritual."

### Dr. Mary Sharlieb, for Forty Years a Leading Gynecologist in England, Says:

"Limitation of families is wrong and dangerous because it does not control nor discipline sexual passion, but by removing the fear of consequences it does away with the chief controlling and steadying influence of sexual life.

"Secondly, the limitation of the family is not really in the interest of over-burdened mothers. It may relieve them of too frequently recurring child-bearing, and from the burden of too large a household; but on the other hand, by removing the chief check on the husband's desires and demands, it destroys the wife's protection from his too great insistence and persistence.

"Thirdly, the possibility of satiating desire without incurring the risk of procreation tends to the over-development of the sexual side of the characters of both man and woman. It is as if the loathsome practices of Heliogabalus made perpetual eating and drinking possible. As Foerster says, 'The situations which will necessarily arise from the man's sexuality being exclusively directed towards sensuous gratification, and being unaccustomed to control, will far surpass, in tragedy, sordidness, and poisonous consequences, anything which could possibly arise from the most unlimited child-bearing. The increase of man's subjection to passion and artificial sensuousness will be disastrous.'

"The picture of a society under a régime of uncontrolled license, of unbridled passion, and absolute self-indulgence, is far from attractive. It would be in all respects worse than anything imagined by the Epicureans. The countries which practised such self-abuse would rapidly degenerate, and would show a lack of physical vigor and of moral greatness.

If the intentional restriction of offspring was practised chiefly by the educated classes, the balance of power and of government would necessarily incline to those who were less well educated but more prolific, and who, unfortunately, would not have behind them the steadying traditions of unselfishness, of self-control, and of capacity for command. The condition of such a State would be one of sheer materialism, the conduct of life depending entirely on bodily desires, not on true bodily welfare, while the capacity for mental and moral greatness would steadily diminish. Those who approve and inculcate the voluntary limitation of families, and who would divorce the sexual act from the intention of procreation, tell us that life is imperfect without the exercise of all the functions of the body; that health both in body and mind must suffer unless sexual desires receive ample gratification; and that the denial of gratification to sexual impulse is injurious to the physical and moral well-being of both men and women. They would have us believe that men who live continent lives become impotent, and that their nervous systems suffer from their self-restraint. That these statements are not generally correct is proved by the experience of thousands of men and women, who for various reasons live celibate lives in absolute chastity, and who maintain physical vigor and nervous integrity. This is not only true of clergy and the religious orders, but also of many men and women who for various reasons connected with work or with family circumstances have neither married nor have sought physical indulgence. Doctors are practically unanimous in the opinion that young men and young women, even during the years when passion is strongest and self-control most difficult, can safely practise continence; that it does not diminish their subsequent fertility, nor does it injure their health. If these young people can be continent without suffering injury, still more can those who are older and whose passions are less eager. In the case of the married couple, their mutual love and the tender intimacy of abstinence may be more difficult on account of their lives, but even in such cases abstinence can be practised without injury, although it may be that it entails more regret and more difficulty. There can be few cases in which abstinence is necessary for married couples apart from those who, owing to unhealthiness of mind or body, ought not to have entered into the contract of marriage."

# EXCERPTS FROM THE AUTHORIZED ENGLISH TEXT OF THE ENCYCLICAL LETTER OF PIUS XI ON CHRISTIAN MARRIAGE

*Contraception.* And now, Venerable Brethren, We shall explain in detail the evils opposed to each of the benefits of matrimony.

First consideration is due to the offspring, which many have the boldness to call the disagreeable burden of matrimony and which, they say, is to be carefully avoided by married people not through virtuous continence (which Christian law permits in matrimony when both parties consent) but by frustrating the marriage act. Some justify this criminal abuse on the ground that they are weary of children and wish to gratify their desires without their consequent burden. Others say that they cannot on the one hand remain continent nor, on the other, can they have children because of the difficulties, whether on the part of the mother or on the part of family circumstances.

But no reason, however grave, may be put forward by which anything intrinsically against nature may become conformable to nature and morally good. Since, therefore, the conjugal act is destined primarily by nature for the begetting of children, those who in exercising it deliberately frustrate its natural power and purpose sin against nature and commit a deed which is shameful and intrinsically vicious.

Small wonder therefore, if Holy Writ bears witness that the Divine Majesty regards with greatest detestation this horrible crime and at times has punished it with death, as St. Augustine notes. Intercourse even with one's legitimate wife is unlawful and wicked where the conception of offspring is prevented. Onan, the son of Juda, did this and the Lord killed him for it.

Since, therefore, openly departing from the uninterrupted Christian tradition, some recently have judged it possible solemnly to declare another doctrine regarding this question, the Catholic Church, to whom God has entrusted the defense of the integrity and purity of morals, standing erect in the midst of the moral ruin which surrounds her, in order that she may preserve the chastity of the nuptial union from being defiled by this foul stain, raises her voice in token of Divine ambassadorship and through Our mouth proclaims anew: Any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life is an offense against the law of God and of nature, and those who indulge in such are branded with the guilt of a grave sin. We admonish, therefore, priests who hear confessions, and others who have the care of souls, in virtue of Our supreme authority and in Our solicitude for the salvation of souls, not to allow the Faithful entrusted to them to err regarding this most grave law of God; much more, that they keep themselves immune from false opinions, in no way conniving in them. If any confessor or pastor of souls, which may God forbid, lead the Faithful entrusted to him into these errors or should at least confirm them by approval or by guilty silence, let him be mindful of the fact that he must render a strict account to God, the Supreme Judge, for the betrayal of his sacred trust, and let him take to himself the words of Christ: "They are blind leaders of the blind. And if the blind lead the blind, both fall into the pit" (Matthew XV, 14).

As regards the evil use of matrimony—to pass over the arguments which are shameful ones—not infrequently, others that are false and exaggerated are put forward. Holy Mother Church very well understands and clearly appreciates all that is said regarding the health of the mother and the danger to her life; and who would not grieve to think of these things; who is not filled with the greatest admiration when he sees a mother risking her life with heroic fortitude, that she may preserve the life of the offspring which she has conceived? God, alone, all bountiful and all merciful as He is, can reward her for the fulfilment of the office allotted to her by nature, and will assuredly repay her in a measure full to overflowing (Luke VI, 38).

Holy Church knows well that not infrequently one of the parties is sinned against rather than sinning when for a grave cause he or she reluctantly allows the perversion of the right order. In such a case, there is no sin, provided that, mindful of the law of charity, he or she does not neglect to seek to dissuade and to deter the partner from sin. Nor are those considered as acting against nature who in the married state use their right in the proper manner although on account of natural reasons either of time or of certain defects, new life cannot be brought forth. For in matrimony as well as in the use of the matrimonial rights there are also secondary ends, such as mutual aid, the cultivating of mutual love, and the quieting of concupiscence which husband and wife are not forbidden to consider so long as they are subordinated to the primary end and so long as the intrinsic nature of the act is preserved.

We are deeply touched by the sufferings of those parents who, in extreme want, experience great difficulty in rearing their children. However, they should take care lest the calamitous state of their external affairs should be the occasion for a much more calamitous error. No difficulty can arise that justifies the putting aside of the law of God which forbids all acts intrinsically evil. There is no possible circumstance in which husband and wife cannot, strengthened by the grace of God, fulfill faithfully their duties and preserve in wedlock their chastity unspotted.

This truth of Christian faith is expressed by the teaching of the Council of Trent (Trid. Conc., Sess. VI, Chap. 11).

Let none be so rash as to assert that which the Fathers of the Council have placed under anathema, namely, that there are precepts of God impossible for the just to observe. God does not ask the impossible, but by His commands, instructs you to do what you are able, to pray for what you are not able, that He may help you.

This same doctrine was again solemnly repeated and confirmed by the Church in the condemnation of the Jansenist heresy which dared to utter this blasphemy against the goodness of God: "Some precepts of God are, when one considers the powers which man possesses, impossible of fulfilment even to the just who wish to keep the law and strive to do so: grace is lacking whereby these laws could be fulfilled."

*Abortion:* But another very grave crime is to be noted, Venerable Brethren, which regards the taking of the life of the offspring hidden in the mother's womb. Some wish it to be allowed and left to the will of the father or the mother; others say it is unlawful unless there are weighty reasons which they call by the name of medical, social, or eugenic "indication." Because this matter falls under the penal laws of the State by which the destruction of the offspring begotten but unborn is forbidden, these people demand that the "indication," which in one form or another they defend, be recognized as such by the public law and in no way penalized. There are those, moreover, who ask that the public authorities provide aid for these death-dealing operations; a thing, which, sad to say, everyone knows is of very frequent occurrence in some places.

As to the "medical and therapeutic indication" to which, using their own words, We have made reference, Venerable Brethren, however much we may pity the mother whose health and even life is gravely imperiled in the performance of the duty allotted to her by nature, nevertheless what could ever be a sufficient reason for excusing in any way the direct murder of the innocent? This is precisely what we are dealing with here. Whether inflicted upon the mother or upon the child it is against the precept of God and the law of nature: "Thou shalt not kill." The life of each is equally sacred, and no one has the power, not even the public authority, to destroy it.

It is of no use to appeal to the right of taking away life, for here it is a question of the innocent, whereas that right has regard only to the guilty; nor is there here question of defense by bloodshed against an unjust aggressor (for who would call an innocent child an unjust aggressor?).

Again, there is no question here of what is called the "law of extreme necessity," which could ever extend to the direct killing of the innocent. Upright and skilful doctors strive most praiseworthily to guard and preserve the lives of both mother and child; on the contrary, those show themselves most unworthy of the noble medical profession who encompass the death of one or the other, through a pretense of practising medicine or through motives of misguided pity.

All of which agrees with the stern words of the Bishop of Hippo in denouncing those wicked parents who seek to remain childless and failing in this are not ashamed to put their offspring to death:

> "Sometimes this lustful cruelty or cruel lust goes so far as to seek to procure a baneful sterility, and if this fails the fœtus conceived in the womb is in one way or another smothered or

evacuated, in the desire to destroy the offspring before it has life, or if it already lives in the womb, to kill it before it is born. If both man and woman are party to such practices they are not spouses at all; and if from the first they have carried on thus they have come together not for honest wedlock, but for impure gratification. If both are not party to these deeds, I make bold to say that either the one makes herself a mistress of the husband, or the other simply the paramour of his wife." (St. Aug., De Nupt. et Concup., Cap. XV.)

What is asserted in favor of the social and eugenic "indication" may and must be accepted, provided lawful and upright methods are employed within the proper limits; but to wish to put forward reasons based upon them for the killing of the innocent is unthinkable and contrary to the Divine precept promulgated in the words of the Apostle: "Evil is not to be done that good may come of it" (Romans III, 8).

Those who hold the reins of government should not forget that it is the duty of public authority by appropriate laws and sanctions to defend the lives of the innocent, and this all the more so since those whose lives are endangered and assailed cannot defend themselves: among whom we must mention in the first place infants hidden in the mother's womb. And if the public magistrates not only do not defend them, but by their laws and ordinances betray them to death at the hands of doctors or of others, let them remember that God is the judge and avenger of innocent blood which cries from earth to Heaven (Genesis IV, 16).

*Sterilization:* Finally, that pernicious practice must be condemned which closely touches upon the natural right of man to enter matrimony but affects also in a real way the welfare of the offspring. For there are some who, over-solicitous for the cause of eugenics, not only give salutary counsel for more certainly procuring the strength and health of the future child—which, indeed, is not contrary to right reason—but put eugenics before aims of a higher order, and by public authority wish to prevent from marrying all those who, even though naturally fit for marriage, they consider, according to the norms and conjectures of their investigations, would, through hereditary transmission, bring forth defective offspring; and more, they wish to legislate to deprive these of that natural faculty by medical action despite their unwillingness, and this they do not propose as an infliction of grave punishment under the authority of the State for a crime committed, nor to prevent future crimes by guilty persons, but against every right and good they wish the civil authority to arrogate to itself a power over a faculty which they never had and can never legitimately possess.

Those who act in this way are at fault in losing sight of the fact that the family is more sacred than the State and that men are begotten not for the earth and for time, but for Heaven and eternity. Although often these individuals are to be dissuaded from entering into matrimony, certainly it is wrong to brand men with the stigma of crime because they contract marriage, on the ground that, despite the fact that they are in every respect capable of matrimony, they will give birth only to defective children, even though they use all care and diligence.

Public magistrates have no direct power over the bodies of their subjects. Therefore, where no crime has taken place and there is no cause present for grave punishment, they can never directly harm, or tamper with the integrity of the body, either for the reasons of eugenics or for any other reason. St. Thomas teaches this when, inquiring whether human judges for the sake of preventing future evils can inflict punishment, he admits that the power indeed exists as regards certain other forms of punishment, but justly and properly denies it as regards the maiming of the body. "No one who is guiltless may be punished by a human tribunal either by flogging to death, or mutilation, or by beating."

Furthermore, Christian doctrine establishes, and the light of human reason makes it most clear, that private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, except when no other provision can be made for the good of the whole body.

## EXCERPTS FROM AN ARTICLE ON THE MORALITY OF STERILIZATION WRITTEN BY THE REV. EDWARD J. MAHONEY, D.D., PROFESSOR OF MORAL THEOLOGY AT ST. EDMUND'S COLLEGE, WARE; DOCTOR OF THEOLOGY OF THE UNIVERSITY OF FRIBOURG:

"To apply this doctrine to the present question, sterilization is clearly lawful when it occurs as a necessary accompaniment of a surgical operation judged necessary for bodily health. (Cf. Antonelli, page 464.) Further, it may quite easily be judged lawful to cause sterilization intentionally and directly as a therapeutic measure. It is maintained by many medical authorities on whom no suspicion of favoring eugenical sterilization rests that disorders sometimes assume such proportions that the sedative effect of sterilization is the only method of bringing relief. Of course, there are views for and against this alleged curative effect and it is no part of a moralist's duty to form medical judgments on the necessity of surgical operations. But granted the operation has therapeutic value, it is theoretically certain that it is altogether lawful. (Cf. Vermeersch Theol. Moral., Volume 2, paragraph 323. Ærtnys Theol. Moral., Volume 1, page 568.)

"We have reached the kernel of the problem. If sterilization is proposed, not for its therapeutic value, but as a eugenical method of purging degenerates from future society, it must be condemned as immoral, whether performed on a willing subject or not, whether imposed by private authority or by the authority of the state. The arguments used in favor of the lawfulness of the practice turn on the alleged right of the state to safeguard the health of posterity. It is assumed that sterilization is the best and most efficient method of securing this desired effect. It is by some assumed to be the only practical method.

"As far as I can envisage the problem, the moral judgment against its lawfulness has a double aspect. In the first place it must be asserted, as a matter of calm fact, that the hypothesis assuming sterilization to be the only practical method of avoiding hereditary disease is decidedly not verified. . . . Not only is segregation an adequate alternative but it is the considered judgment of many eugenists, who are not concerned with the moral question, that segregation is, on the whole, the most practical method of securing the end they have in view. (Cf. Sterilization and Mental Deficiency, Central Association for Mental Welfare, 1923, London, The Lancet, 1926, page 1234.) . . .

"It is clearly capable of proof that the civil authority enjoys a mandate from God to punish the wrongdoer by death, and a fortiori by mutilation, but on what title does the state claim this prerogative in any other case? It will be answered: On a title of preserving the common interests and health of the community. Just as mutilation is lawful for the health of the individual organism, so it is also lawful for the body politic to mutilate individuals for the common good. Here exactly is the fundamental error. *There is no exact parity between members of a human body with relation to the whole organism and the members of a state with relation to the whole state.* For bodily members exist for the good of the individual, but individual men do not exist for the good of the state. The very reverse is the solemn truth, though it is daily becoming more obscured; the state exists for the good of the individual, to safeguard and defend his natural rights. Once a principle of state interference with the individual bodily integrity of its members is admitted, we are entitled to ask, where is it going to end? As it is, the precise limits of cases diagnosed as ripe for sterilization is a matter of considerable doubt and controversy. If the lawfulness of such interference is conceded, it will be stretched far beyond the limit set by its original promoters very much as the divorce laws are gradually abolishing altogether the institution of marriage. . . .

"Finally, this ethical doctrine, which we have attempted to give in outline, can be demonstrated as true in the findings of various authorities who are definitely opposed to eugenical sterilization on social and scientific grounds. For any interference with the natural law is bound to have effects which are, in the long run, detrimental to human society.

"In the United States of America the subject has been very thoroughly discussed from all these aspects, and a certain number of statistics are available. (Cf. H. Loughlin, Eugenical Sterilization, 1926.) But it might be worth while drawing the attention of American readers to a certain European contributon to the discussion. A contribution to the 'Revue de Droit Pénal et de Crimonologie et Archives Internationales de Médicine Légale' has made what, to the lay mind, appears a most careful survey of all the evidence. (June, 1926, page 566.) The definite conclusion is that the present state of our knowledge of biology, criminal anthropology and statistics of sterilization does not justify us in regarding sterilization as an efficacious means of preventing the spread of degeneracy and criminality. Quite apart from the moral issue it is open to serious scientific and sociological objection. This conclusion is practically the same, though the presentation of the evidence by Dr. Verdack is more thorough, as is that reached by the report of the Central Association for Mental Welfare (London, 1923). Segregation would still be necessary for a large proportion of cases, even after sterilization; only a proportion of mental defectives are the offsprings of defectives, and there is the insoluble difficulty of deciding who should be sterilized from a eugenical point of view.

"In both these statements it is only fair to add the possibility of fresh scientific knowledge justifying the practice is regarded as possible, but at the present juncture this knowledge has not been obtained and methods which are open to serious scientific objections cannot be regarded as admissible.

"With regard to the unfortunate people themselves, it is admitted by all that they are happier under the kindly supervision of our institutions. From the ethical point of view, this state of hesitancy and doubt is fortunately absent; eugenical sterilization is indefensible. The only right and sound eugenical precaution is segregation, and although even this is capable of being imposed unjustly and tyrannically, there is not and cannot be the same intrinsic moral objection to the practice as that which must be offered to the compulsory mutilation of innocent persons. For segregation is consistent with a due regard to the dignity of a human being and the rights of God and its practical application is consistent with the highest methods of Christian charity. It does at least regard the human being even with the most ghastly defects, as possessing a human soul and individual rights, not merely as a complicated machine of ducts and glands to be regarded uniquely from the point of view of a plumber or a sanitary engineer."

THE REV. H. DAVIS, S.J., PROFESSOR OF MORAL THEOLOGY, HEYTHROP COLLEGE, CHIPPING NORTON, OXON, QUOTED IN THE "CATHOLIC MEDICAL GUARDIAN," OCTOBER, 1926, SAYS:

"Has the State the right to sterilize the unfit that it may not be put to the expense of maintaining unfit offspring? Has the State the right to mutilate people who are not criminals, that is, people who have committed no offense? Can the State take this precautionary measure? The State can do so, if it has supreme power over the bodies of citizens. But has it? By living in a polity man cannot hand over to the State a right which he does not himself possess. No person may mutilate himself except to save his whole body. If the State had the right of mutilating a citizen—apart from just punishment—as it is merely a matter of degree, it could go on mutilating the citizen till death. A very absurd proposition. A great many people have an exalted idea of the power of the State until it raises the question of their own suffering. It would be considered monstrous to hold that the State could rightly command miners to work at a wage that could not possibly keep a man alive. It would be still more monstrous to hold that, if a given miner is unfit to have children, the State could mutilate him. The fact is that many people forget or have never realized this truth, that the State exists for the sake of man. In the case of an individual it would be unreasonable and ridiculous for him to mutilate himself in order that he might not have unfit children. He would be violating God's dominion over his body. How, then, can the State do this?"

### The "Conference Bulletin of the Archdiocese of New York" (Vol. V, No. 4, P. 125) Has the Following:

"Once the mask of pretended reasons and motives has been torn from it, this law takes its proper moral place as a deliberately selected instrument to accomplish an unlawful birth-control. It is regarded as the least expensive, the least troublesome, the least objectionable way of weeding out the unfit and less desirable future citizenry and of raising the general average of health stock. Therefore as it lacks the essential requisites of a legitimate self-defense measure, it must be catalogued as legalizing unlawful mutilation. This is sufficient to condemn it as intrinsically evil, but we must not overlook another malice in the purpose of the law-maker and aimed at by the law itself. That object is to frustrate the fruitfulness of natural intercourse (whether marital or not). In framing and executing this law, those responsible have it as their intention to obstruct effectively the generative process, in case the sterilized victims attempt intercourse. Their will is, therefore, to accomplish what is intrinsically wrong—the voluntary frustration of nature, in the hypothesis mentioned. Such a will is mortally sinful, even though hypothetical. Formal coöperation with the passing of the law or its execution, involves the same species of guilt."

### Sterilization and Mental Deficiency

On January 18, 1926, a letter appeared in the London "Times" under the heading "Mental Deficiency. The Influence of Heredity," advocating a policy of sterilization of mental defectives as "the only effective means of preventing propagation." This letter was signed by ten medical men.

The letter from the Central Association for Mental Welfare printed below was sent as an answer to that of January 18, and appeared in the "Times" on January 20, 1926:

### "MENTAL DEFICIENCY

### "CASE FOR INSTITUTIONAL TREATMENT

"*To the Editor of the Times:*

"Sir,—The ten signatories to the letter on the subject of the sterilization of mental defectives, which appears in your issue of January 18, while unquestionably actuated by the best of intentions, yet write in ignorance of the experience and conclusions of those having a wide practical knowledge of mental deficiency. This, after all, is excusable, since it would not appear that any of them, at any time, has been especially concerned with defectives.

"We therefore desire to direct the attention of the public to the conclusions on this matter which have been arrived at by the council of this association. In doing this it may not be inappropriate to point out that the Central Association for Mental Welfare is the chief non-official body in the country dealing with defectives; that during the past ten years a total of 34,000 cases of mental abnormality have been referred to its central office and local associations; and that its central council is composed of representatives nominated by practically all the official bodies and societies in the country engaged in work amongst mental defectives, together with medical specialists of recognised standing in this subject.

"The question of sterilization was considered very fully and carefully by the medical committee and council of this association. They were fully cognizant of the cost of institutional treatment and the urgent necessity for economy; they were even more alive to the necessity of preventing the propagation of offspring by defectives; nevertheless, they unanimously arrived at the conclusion that while sterilization might be appropriate and applicable to certain particular cases, it would have very little effect in the prevention of mental deficiency, it would certainly lead to serious social evils, and it would be inimical to defectives and to the community were it to be adopted as a general policy. These conclusions were embodied in a pamphlet published in 1923, which may be obtained from the central office of the association.

"Much as we should desire it, we feel that your space will not allow us to state in detail the grounds upon which these conclusions are based. We trust, however, that we may be permitted to give a brief indication of them.

"(1) The preventive effect of a general policy of sterilization would be very slight.

"This may appear strange; but it is an undoubted fact that although the majority of cases of mental defect are the result of inheritance, the proportion of cases who are the offspring of actually defective parents is, in relation to the whole, an extremely small one. It follows from this that if every defective in existence a generation ago had been sterilized, the number of defectives today would not have been appreciatively diminished; also, that if every defective now existing were to be sterilized, the result a generation hence would be insignificant.

"(2) A general policy of sterilization would be attended with serious social evils.

"There is clearly no point in sterilization unless it is to be accompanied by the freedom of thousands of defective males and females, who are now cared for in institutions, where they are generally happy and usefully employed. Such freedom would inevitably mean a return to the disastrous conditions which existed before the passing of the Mental Deficiency Act of 1913. Under those conditions thousands of feeble-minded persons led a harried existence between workhouse, refuge, prison and the street. In addition to this, promiscuous sexual intercourse was very prevalent, and there can be no doubt that the feeble-minded, among whose chief characteristics are a lack of control and inability to perceive consequences, were a very great centre for the spread of venereal diseases. We are convinced that the presence in the community of thousands of feeble-minded women and girls who were known to have been sterilized, and therefore incapable of becoming pregnant, would increase such promiscuous intercourse and such diseases.

"In short, the general conclusion arrived at by the most representative body of medical and lay men and women in this country, having a wide practical experience of mental defectives, is that a general policy of sterilization would be ineffective in prevention; that the freedom accompanying it would be attended with positive harm to the defectives themselves; that it would delay institutional provision for their segregation, which we regard as the only safe remedy for those likely to engage in sexual intercourse; and that, finally, it would fail to provide any effectual safe-guard either for the defectives or for the community.

"We are, Sir, your obedient servants,

"Leslie Scott, K.C., M.P., President.
A. F. Tredgold, M.D., Vice-President and Chairman of Medical Committee.
"H. B. Brackenbury, M.R.C.S., L.R.C.P., Vice-President and Chairman of Education Committee.
"Evelyn Fox, Honorary Secretary.
"Central Association for Mental Welfare, 24, Buckingham Palace Road, S.W.I., Jan. 19, 1926."

# UNITED STATES LAWS

*Text of the Law of March 3, 1873, An Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use, Chapter CCLVIII.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever, within the District of Columbia or any of the Territories of the United States, or other place within the exclusive jurisdiction of the United States, shall sell, or lend, or give away, or in any manner, exhibit, or shall offer to sell, or to lend, or to give away, or in any manner to exhibit, or shall otherwise publish or offer to publish in any manner, or shall have in his possession, for any such purpose or purposes, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion, or shall advertise the same for sale, or shall write or print, or cause to be written or printed, any card, circular, book, pamphlet, advertisement or notice of any kind, stating when, where, how, or of whom, or by what means, any of the articles in this section hereinbefore mentioned, can be purchased or obtained, or shall manufacture, draw, or print, or in any wise make any of such articles, shall be deemed guilty of a misdemeanor, and, on conviction thereof in any court of the United States having criminal jurisdiction in the District of Columbia, or in any Territory or place within the exclusive jurisdiction of the United States, where such misdemeanor shall have been committed; and on conviction thereof, he shall be imprisoned at hard labor in the penitentiary for not less than six months nor more than five years for each offense, or fined not less than one hundred dollars nor more than two thousand dollars, with costs of court.

Section 2. That section one hundred and forty-eight of the act to revise, consolidate, and amend the statutes relating to the Post-Office Department, approved June 8, 1872, be amended to read as follows:

"Section 148. That no obscene, lewd, or lascivious book, pamphlet, picture, paper, print, or other publication of an indecent character, or any article or thing designed or intended for the prevention of conception or procuring of abortion, nor any article or thing intended or adapted for any indecent or immoral use or nature, nor any written or printed card, circular, book, pamphlet, advertisement or notice of any kind giving information, directly or indirectly, where, or how, or of whom, or by what means either of the things before mentioned may be obtained or made, nor any letter upon the envelope of which, or postal card upon which indecent or scurrilous epithets may be written or printed, shall be carried in the mail; and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, any of the hereinbefore mentioned articles or things, or any notice, or paper containing any advertisement relating to the aforesaid articles or things, and any person who, in pursuance of any plan or scheme for disposing of any of the hereinbefore mentioned articles or things, shall take, or cause to be taken, from the mail any such letter or package, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for every offense, be fined not less than one hundred dollars nor more than five thousand dollars, or imprisoned at hard labor not less than one year nor more than ten years, or both, in the discretion of the judge."

Section 3. That all persons are prohibited from importing into the United States, from any foreign country, any of the hereinbefore mentioned articles or things, except the drugs hereinbefore mentioned when imported in bulk, and not put up for any of the purposes before mentioned; and all such prohibited articles in the course of importation shall be detained by the officer of customs, and proceedings taken against the same under section five of this act.

Section 4. That whoever, being an officer, agent or employé of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall, for every offense, be punished as provided in section two of this act.

Section 5. That any judge of any district or circuit court of the United States, within the proper district, before whom complaint in writing of any violation of this act shall be made, to the satisfaction of such judge, and founded on knowledge or belief, and, if upon belief, setting forth the grounds of such belief, and supported by oath or affirmation of the complainant, may issue, comformably to the Constitution, a warrant directed to the marshal, or any deputy marshal, in the proper district, directing him to search for, seize, and take possession of any such article or thing hereinbefore mentioned, and to make due and immediate return thereof, to the end that the same may be condemned and destroyed by proceedings, which shall be conducted in the same manner as other proceedings in cases of municipal seizure, and with the same right of appeal or writ of errors: Provided:

That nothing in this section shall be construed as repealing the one hundred and forty-eighth section of the act of which this act is amendatory, or to affect any indictments heretofore found for offenses against the same, but the said indictments may be prosecuted to judgment as if this section had not been enacted.

The federal law in its present form reads as follows:

### *Title 18, Chapter 8, Section 334, United States Code Annotated (Criminal Code, Section 211, Amended): Mailing Obscene Matter*

Every obscene, lewd, or lascivious, and every filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and every written or printed card, letter, circular, book, pamphlet, advertisement or other notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of the hereinbefore-mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine or thing, is hereby declared to be non-salable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier. Whoever shall knowingly deposit, or cause to be deposited, for mailing, or delivery, anything declared by this section to be non-mailable, or shall knowingly take, or cause the same to be taken, from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than $5,000 or imprisoned not more than five years, or both. The term "indecent" within the intendment of this section shall include matter of a character tending to incite arson, murder, or assassination.

### *Title 19, Chapter 4, Section 1305, United States Code Annotated*[1] *(Section 305 (a) and of the Tariff Act of 1930)*

*Immoral articles—Importation prohibited.* (a) Prohibition of importation. All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug, or medicine, or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore-mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

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[1] 1930 Cumulative Pocket Part, p. 147. By the Tariff Act of 1930, Sections 190 and 191 of Title 18 of the United States Code Annotated and Section 135 of Title 19 were repealed.

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the collector to await the judgment of the district court as hereinafter provided: and no protest shall be taken to the United States Customs Court from the decision of the collector. Upon the seizure of such book or matter the collector shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

(b) Penalty on government officers. Any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writing, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than $5,000, or by imprisonment at hard labor for not more than ten years, or both.

### *Title 18, Chapter 13, Section 512, United States Code Annotated (Criminal Code, Section 312): Circulating Obscene Literature*

Whoever shall sell, lend, give away, or in any manner exhibit, or offer to lend, sell, or give away, or in any manner exhibit, or shall otherwise publish or offer to publish in any manner, or shall have in his possession for any such purpose, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion, or shall advertise the same for sale, or shall write or print, or cause to be written or printed, any card, circular, book, pamphlet, advertisement, or notice of any kind, stating when, where, how or of whom, or by what means, any of the articles above mentioned can be purchased or obtained, or shall manufacture, draw, or print or in any wise make any of such articles, shall be fined not more than $2,000, or imprisoned not more than five years, or both.[2]

### *Title 18, Chapter 9, Section 396, United States Code Annotated. (Criminal Code, Section 245, Amended.) Importing and Transporting Obscene Books.*

Whoever shall bring or cause to be brought into the United States, or any place subject to the jurisdiction thereof, from any foreign country, or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one state, Territory or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States, through a foreign country, to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country, any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture, motion picture film, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use; or any written or printed card, letter circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of the hereinbefore-mentioned articles, matter or things may be obtained or made; or whoever shall knowingly take or cause to be taken from such express company or other common carrier any matter or thing, the depositing of which for carriage is herein made unlawful, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

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[2] This section, according to Section 311 of the Criminal Code, applies only to any Territory or District under the exclusive jurisdiction of the United States. The section, therefore, would apply to the District of Columbia, Alaska, Porto Rico, Hawaii, Philippines, Panama Canal Zone, Guam, and Tutuila, as well as Federal Reservations.

# SECTIONS OF THE PENAL LAW, STATE OF NEW YORK, COVERING CONTRACEPTION

Chapter 41, Section 1142. Indecent articles. A person who sells, lends, gives away, or in any manner exhibits or offers to sell, lend or give away, or has in his possession with intent to sell, lend or give away, or advertises, or offers for sale, loan or distribution, any instrument or article, or any recipe, drug or medicine for the prevention of conception, or for causing unlawful abortion, or purporting to be for the prevention of conception, or for causing unlawful abortion, or advertises, or holds out representations that it can be so used or applied, or any such description as will be calculated to lead another to so use or apply any such article, recipe, drug, medicine or instrument, or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means such an instrument, article, recipe, drug or medicine can be purchased or obtained, or who manufactures any such instrument, article, recipe, drug or medicine, is guilty of a misdemeanor, and shall be liable to the same penalties as provided in section eleven hundred and forty-one of this chapter.

1143. Mailing or carrying obscene prints and articles. A person who deposits, or causes to be deposited, in any post-office within the state, or places in charge of an express company, or of a common carrier, or other person, for transportation, or for any purpose save the destruction thereof, any of the articles or things specified in the last four sections, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail or express, or in any other manner, or who knowingly or wilfully receives the same, with intent to carry or convey, or knowingly or wilfully carries or conveys the same, by express, or in any other manner except in the United States mail, is guilty of a misdemeanor.

1144. Warrant to sheriff to search. A magistrate having jurisdiction to issue warrants in criminal cases, upon complaint that any person within his jurisdiction is offending against the provisions of this article, supported by oath or affirmation, must issue a warrant, directed to the sheriff or to any constable, marshal, or police officer within the county, directing him to search for, seize, and take possession of any of the articles specified in this article, in the possession of the person against whom complaint is made. The magistrate must immediately transmit every article seized by virtue of the warrant, to the district attorney of the county, who must, upon the conviction of the person from whose possession the same was taken, cause it to be destroyed, and the fact of such destruction to be entered upon the records of the court in which the conviction is had.

1145. Physicians' instruments. An article or instrument, used or applied by physicians lawfully practising, or by their direction or prescription, for the cure or prevention of disease, is not an article of indecent or immoral nature or use, within this article. The supplying of such articles to such physicians or by their direction or prescription, is not an offense under this article.

1147. Who may arrest persons violating provisions of this article. Any agent of the New York society for the suppression of vice, upon being designated thereto by the sheriff of any county in this state, may within such county make arrests and bring before any court or magistrate thereof having jurisdiction, offenders found violating the provisions of any law for the suppression of the trade in, and circulation of obscene literature and illustrations, advertisements and articles of indecent and immoral use, as it is or may be forbidden by the laws of this state, or of the United States.

## Court Opinions on the Law

1142. Indecent articles. *Constitutionality:* The provision of this section which makes it a misdemeanor to sell, advertise or give information for the prevention of conception is not unconstitutional. People *v.* Sanger, (1918) 222 N. Y. 192, 118 N. E. 637, affirming (1917) 179 App. Div. 939, 166 N. Y. S. 1107.

The legislature in the exercise of the police power may determine whether the general dissemination of information upon the subject of birth control and the sale of articles to prevent conception are prejudicial to public morals and inimical to the welfare of the community. Thus where a defendant was convicted of a violation of the section upon proof that she sold an article to be used by women to prevent conception, and, in conjunction therewith, disseminated literature dealing with the question of conception and setting forth various means by which it could be prevented, a motion for a certificate of reasonable doubt on the sole ground that the statute is unconstitutional will be denied. People *v.* Byrne, (1917) 99 Misc. 1, 163 N. Y. S. 682. See also People *v.* Byrne, (1916) 163 N. Y. S. 680.

*Moving pictures.*—The commissioner of licenses of New York City was justified under this section in revoking the license of a theater which proposed to show a moving picture known as "Birth Control." Message Photo-Play Co. *v.*

Bell, (1917) 179 App. Div. 13, 166 N. Y. S. 338, reversing 100 Misc. 267, 167 N. Y. S. 129. See also Universal Film Mfg. Co. *v.* Bell, (1917) 179 App. Div. 928, 166 N. Y. S. 344, affirming (1917) 100 Misc. 281, 167 N. Y. S. 124.

1145. Physicians' instruments. *Effect of section on section 1142:* This section modifies the prohibition contained in section 1142. People *v.* Byrne, (1916) 163 N. Y. S. 680.

"This exception in behalf of physicians does not permit advertisements regarding such matters, nor promiscuous advice to patients irrespective of their condition, but it is broad enough to protect the physician who in good faith gives such help or advice to a married person to cure or prevent disease." People *v.* Sanger, (1918) 222 N. Y. 192, 118 N. E. 687, affirming (1917) 170 App. Div. 939, 166 N. Y. S. 1107.

# SAMPLE STATE LAW ON ABORTION

## NEW YORK STATE

### CAHILL'S CONSOLIDATED LAWS OF NEW YORK, 1930:

Chapter 41, Section 80. (Definition and punishment of abortion.) A person who, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve the life of the woman, or of the child with which she is pregnant, either:

1. Prescribes, supplies, or administers to a woman, whether pregnant or not, or advises or causes a woman to take any medicine, drug, or substance; or,

2. Uses, or causes to be used, any instrument or other means is guilty of abortion, and is punishable by imprisonment in a state prison for not more than four years, or in a county jail for not more than one year.

Chapter 41, Section 81. (Killing child in attempting miscarriage.) A pregnant woman who takes any medicine, drug or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, is punishable by imprisonment for not less than one year, nor more than four years.

Chapter 41, Section 82. (Selling drugs or instruments to procure a miscarriage.) A person who manufactures, gives or sells an instrument, a medicine or drug, or any other substance, with intent that the same may be unlawfully used in procuring the miscarriage of a woman, is guilty of a felony.

Chapter 41, Section 1050: The wilful killing of an unborn quick child by an injury committed upon the person of the mother of such child is manslaughter in the first degree.

A person who provides, supplies or administers to a woman, whether pregnant or not, or who prescribes for, or advises or procures a woman to take any medicine, drug, or substance or who uses or employs or causes to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case the death of the woman, or any quick child of which she is pregnant, is thereby produced, is guilty of manslaughter in the first degree.

Chapter 41, Section 1052, 3: A woman quick with child, who takes or uses or submits to the use of any drug, medicine, or substance, or any instrument or other means with intent to produce her own miscarriage, unless the same is necessary to preserve her own life or that of the child, whereof she is pregnant, if the death of such child is thereby produced, is guilty of manslaughter in the second degree.

Physician's license may be revoked for unlawful abortion. (Chapter 46, Section 170.)

# SAMPLE STATE LAW ON STERILIZATION

## ARIZONA

Session Laws, 1929, Chapter 44:

BE IT ENACTED by the legislature of the State of Arizona:

Section 1—Whenever the Superintendent of the State hospital for the insane shall be of the opinion that it is for the best interests of the patients and of society that any inmate of the institution under his care should be sexually sterilized, such superintendent is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, the operation of sterilization on any such patient confined in any such institution, afflicted with hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness or epilepsy; provided that such superintendent shall have first complied with the requirements of this act.

Section 2—Such superintendent shall first present to the state board of medical examiners a petition stating the facts of the case and the grounds for his opinion, verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by said board requiring him to perform or to have performed by some competent physician to be designated by him in his said petition or by said board in its order upon the inmate of the institution named in such petition, the operation of vasectomy if upon a male and of salpingectomy if upon a female.

A copy of said petition must be served upon the legal guardian of the inmate together with a notice in writing designating the time and place of said operation, in the said institution, not less than 30 days before the presentation of such petition to said board, when and where said board may hear and act upon said petition, if such guardian be known to said superintendent, and if there be no such guardian or none such be known to the said superintendent, then the said superintendent shall apply to the superior court of the county in which the said institution is situated, which by a proper order entered in a book of the said court to be kept for that purpose, shall appoint some suitable person to act as guardian of said inmate for the purposes of proceedings under this act, to defend the rights and interests of the said inmate and the guardian so appointed shall be paid by the said institution a fee not exceeding $25. as may be determined by the judge of the said court for his services under said appointment and such guardian shall be served likewise with a copy of the aforesaid petition and notice. Such guardian may be removed or discharged at any time by the said court and a new guardian appointed in his place.

If the said inmate be an infant having living a parent or parents whose names and addresses are known to the said superintendent, they or either of them as the case may be shall be served likewise with a copy of the said petition and notice.

After the notice required by this act shall have been so given, the said board of medical examiners, at the time and place named therein, with such reasonable continuances from time to time and from place to place as the said board may determine, shall proceed to hear and consider the said petition and the evidence offered in its support of and against the same; provided that the said board shall see to it that the said inmate shall attend to said hearings in person.

The said board may receive and consider as evidence at the said hearing the commitment papers or other records of the said inmate with, or in, any of the aforesaid named institutions as certified by the superintendent thereof, together with such other legal evidence as may be offered by any party to the proceedings.

Any member of the said board shall have power to administer oaths to any witnesses at such hearing.

Depositions pertinent to the case under consideration may be taken by the board or at its instigation from any party and read in evidence.

The said board shall preserve and keep all record evidence offered at such hearings and shall have reduced to writing in duplicate all oral evidence so heard to be kept with its records.

Any party to the said proceedings shall have the right to be represented by counsel at such hearings.

The said board may deny the prayer of the said petition or if the said board shall find that the said inmate is insane, idiotic, imbecile, feeble-minded, or epileptic and by the laws of heredity is the probable potential parent of socially inadequate offspring likewise afflicted; that the said inmate may be sexually sterilized without detriment to his or her general health and that the welfare of the inmate and of society will be promoted by such sterilization, the said board may order the superintendent to perform or to have performed by some competent physician to be named in such order, upon the said inmate, after not less than 30 days from the date of such order, the operation of vasectomy if a male or of salpingectomy if a female; provided that nothing in this act shall be construed to authorize the operation of castration nor the removal of sound organs from the body.

Section 3—From any order so entered by the said board the said superintendent or the said inmate or his guardian or parent or next friend shall within 30 days after the date of such order have the right of appeal to the superior court of the county in which the said institution is situated, which appeal may be taken by giving notice thereof in writing to any member of the said board and to the other parties to said proceedings, whereupon the said superintendent shall forthwith cause a copy of the petition, notice, evidence and orders of the said board certified by the chairman or in his absence by any other member thereof, to the clerk of the said superior court, who shall file the same and docket the appeal to be heard and determined by the said court as soon thereafter as may be practicable.

The said superior court in determining such appeal may consider the record of the proceedings before the said board, including the evidence therein appearing together with such other legal evidence as the said court may consider pertinent and proper that may be offered to the said court by any party to the appeal.

Upon such appeal the said superior court may affirm, revise the orders of the said board appealed from and may enter such order as it deems just and right and which it shall certify to the said board.

The pendency of such appeal shall stay proceedings under the order of the board until the appeal be determined.

Section 4—Any party to such appeal in the superior court may within 90 days after the date of the final order therein, appeal to the supreme court of the State.

The pendency of an appeal in the supreme court shall operate as a stay of proceedings under any orders of the board or of the superior court until the appeal be determined by the said supreme court.

Section 5—Neither the superintendent nor any other person legally participating in the execution of the provisions of this act shall be liable either civilly or criminally on account of said participation.

Section 6—Nothing in this act shall be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person in this State, by a physician or surgeon licensed in this State, which treatment may incidentally involve the nullification or destruction of the reproductive functions.

Section 7—All acts, or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1929.

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# INDEX

Abortion, 47-50, 235, 264
— and sterilization, law on, 215, 287-296
— enforcement of laws on, 221-224
Absolute overpopulation theory, 92-100
Agricultural problems, 128-133, 148-153
Alsberg, Dr. Carl L., 131
American Birth Control League, 63, 220
American Medical Association, 63, 66, 67
Aristotle's theories concerning population, 76
Arizona law on sterilization, 293
Armstrong-Jones, Dr. Sir Robert, 28
Ausems, Dr. A. W., 8, 164, 176
Australasia, population policy of, 231

Baker, Dr. O. E., 94, 95, 106, 127, 128, 150
Baker's population estimates, 94, 95 ,106
Ballod's population estimates, 94
"Biologie und Pathologie des Weibes," 29
Birth Control Bureau, 16
Birth-control, action of Medical Society of Kings County, N. Y., 246
Birth-control, action of Medical Society of Ulster County, N. Y., 245
— action of New York Academy of Medicine, 59-62, 241
— and food supply, 4, 123-135
— by self-control, 5
— conclusions of the Federal Council of Churches, 65
— economic arguments, 10
— medical profession's attitude, 10
Birth-prevention methods, none infallible, 32
— propaganda for, 5-10
Birth-rate, causes of decline, 113-115
— qualitative analysis, 170
Black, John D., 129
Boeters, Dr., 53
Botero, study of population, 82
Brigham's population estimates, 94
Brownlee, Dr. John, 111, 165
Bryn Mawr graduates, analysis of families of, 174, 175
"Builders of America, The"—Huntington and Whitney, 169, 170
*Bulletin of the Archdiocese of New York,* 274
Bureau, Paul, 42, 45, 46, 180, 182
Burgdörfer, Dr. Friedrich, 162

Cæsar, Julius, encouraged growth of families, 78

# INDEX

California, sterilization laws, 56
Cancer, a resultant of contraception, 28
Cannan, Edwin, 137
Carpenter, Edward, 42
Carr-Saunders, A. M., 136, 144
Carr-Saunders' population estimates, 99, 111
Castration, 53, 266
— legal experiments, 219, 293
Catholic Church, attitude of towards birth-control, 43
— attitude of towards sterilization, 56, 266
— bans contraception, 188-190, 193-206
— teachings of concerning abortion, 49, 50, 264
*Catholic Medical Guardian,* 273
Celibacy, 79
Central Association for Mental Welfare, 275-277
Chapman, Dr. Ross McC., 44
Childlessness, causes other than contraception, 235
— mental disturbances from, 27
— of college graduates, 173-176
Children, number of per family, occupational analysis, 171
China, food supply in, 132
Christianity and celibacy, 79
Clinics, contraceptive, 242
Coitus interruptus, 251
Congress, considers the Gillett Bill, 63-65
— contraception legislation, 209-211
Continence, 43-46
"Contraception, a Common Cause of Disease," 45
Contraception, and divorce, 180-186
— and the home, 184, 185
— and the prostitute, 186
— banned by Catholic Church, 188-190, 193-206
— cancer as a resultant, 28
Contraception, churchman's views, 11
— effect of on female organs, 30, 35
— enforcement of laws on, 221-224
— extent of, in United States, 187
— Federal laws on, 207, 278
— gynecologists' warnings, 21-31
— illogical claims of the doctor, 11
— ineffective expedients, 34
— medical aspect of, 18-20, 235-240
— methods discussed, 35-38
— offends law of nature, 199
— state laws on, 212
— sterility a resultant, 19, 24, 26
Contraceptive clinics, 242
— devices, evils of, 34-37
— practices, consequences of, 237-240
Contraceptives, New York State laws concerning, 61, 241-247
Cooper, Dr. James F., 32
Cooper, Dr. John M., 168, 183
"Crusader complex," the, 38

Dalton, Dr. Hugh, 137
Davenport, Professor, 136
Davies, Stanley Powell, 54
Davis, Rev. H., S. J., 56, 273
Death-rate, causes of decline, 116
Denmark, female fertility in, 120
Dennett, Mary Ware, 209
Divorce, evils of, 180
Douglass, H. Paul, 152
Dublin, Louis I., 111, 119

East, E. M., 95, 105, 111
East's population estimates, 95, 98, 111

# INDEX

Economic development and population, 145-147
— viewpoint, 10
Encyclical Letter of Pius XI on marriage, 261
Enforcement of birth-control laws, 221-224
Europe, fall of birth-rate in, 112
— female fertility in, 120
Expectancy of life, term of, 116

Fairchild, Prof. Henry Pratt, 158, 196
Fallectomy, 52
Farm census reports of the United States, 125
Federal Council of Churches, 64, 182, 201
Federal Farm Board, 124, 151
Federal laws on contraception, 207, 278
Feeblemindedness and sterilization, 54-56, 274
Fertility, female, 120-122
Fertilizers, artificial, 133
Foerster, Dr. ——, 253
Food supply and birth-control, 123-135
Francis, Bishop of Gaeta, 81
Freud, Dr. Sigmund, 38

Gamgee, Dr. Helen, 165
German Congress of Specialists on Women's Diseases, 23
German population policy, 230
Germany, fall of birth-rate in, 112
— female fertility in, 120
Gillett Bill before Congress, 63-65, 210
Gini, Corrado, 111
Gonnard, René, 74, 75
Gray, L. C., 127
Great Britain, fall of birth-rate in, 112
— female fertility in, 120
— population policy in, 229
Greece, ancient theories of population control, 73-78
Gynecologists' warning against contraception, 21-31

*Handwörterbuch der Sexualwissenschaft*, 22
Hansen, A. H., 152
Harvard graduates, analysis of families of, 172-173
Holmes, Prof. Samuel J., 166
Home, decadence of, 185
Horder, Dr. Sir Thomas, 35
Huntington, Ellsworth, 169, 170

Indiana, law on sterilization, 219
Inge, Dean, 98
Internationale Gesellschaft für Sexualforschung, 22
Italy, fall of birth-rate in, 113
— population policy of, 231

Jacobson, Dr. Arthur C., 66
Jordan, Édouard, 182
"Journal of the American Medical Association," 15

Kansas, feebleminded, castration of, 219
— sterilization laws, 56
Kisch, Dr. E. Heinrich, 34, 36, 251
Knibbs, Sir George, 92, 93, 99, 111
Knopf, Dr. S. Adolphus, 33
Kouwer, Professor, 22
Kuczynski, Robert R., 111, 112, 115, 119, 120, 144, 147, 148, 150

# INDEX

Laparotomy, 52
Large vs. small families, 164
Law of secular diminishing returns, 90, 103-107
Laws on abortion and sterilization, 215, 219, 278-296
— on contraception, enforcement of, 221-224
Legge, Alexander, 125, 151
Lescohier's population estimates, 96, 105
Lewis, Supreme Court Justice, 185
Liepmann, Professor, 48
Lindsey, Judge Ben, 186
Literature, sex, 38, 39
Longevity of children from large families, 166
Lotka, Alfred J., 111, 119
Love the basis of married life, 41

McCann, Dr. Frederick J., 21, 25, 30, 32, 44, 109, 165, 249, 250
Machiavelli's population theories, 81-82
Macomber, Dr. Donald, 47
Mahoney, Rev. Edward J., 56, 57, 269
Malthus, Thomas Robert, 83-86, 109, 110
Marchant, Dr. Sir James, 35
Marcuse, Dr. Max, 22
Marital obligations *vs.* marital pleasures, 33
Marriage, trial, 186
Marshall, Alfred, 104
Massachusetts experiments in sterilization, 53
Mayer, Rev. Joseph, 51
Mechanical contraceptive devices, evils of, 34-37, 236
Medical aspects of contraception, 18-20
— profession's attitude towards birth-control, 10
Medical aspects of contraception, Society of Kings County, N. Y., 67, 246
Medical Society of Ulster County, N. Y., 245
"Medical Views on Birth Control"—Marchant, 35
Mental deficiency and sterilization, 274
Metallic resources of the world, 134
Middle Ages, population theories of, 80
Mill, John Stuart, 85, 106, 137
Morgan, Dr. William Gerry, 65
Motherhood, potential, classification of women, 176
Mothers of large families, 165
Mount Holyoke graduates, analysis of families of, 175

Nature's control of births, 4
Nebraska, sterilization laws, 56
Neo-Malthusianism, 9, 22, 84-86, 254
Netherlands, population policy of, 230
Neurasthenia, childlessness a cause of, 28
New York Academy of Medicine, action on birth-control, 59-62, 241
New York State laws concerning contraceptives, 61, 241, 287
— sterilization statute, 220
Nordau, Max, 252

Occupational analysis of number of children per family, 171
Onanism, 35
Oppenheimer's population estimates, 94

# INDEX

"Optimum Population,"—Fairchild, 158
Optimum population fantasy, 136-141
Oregon, sterilization laws, 56
Ortes, Giammaria, 83, 110
Overcrowded world, theoretical discussions, 110-122
Overpopulation, alarmists' theories, 88-91
— ancient world views, 72
— and unemployment, 144
— Aristotle's theories, 76
— Middle Ages theories, 80-82
— Plato's theory of restriction, 74-76
— Roman consideration of, 78
— theory of absolute, 92-100
— views of ancient Greeks, 74
Overproduction, statistics, 123-135

Pearl's population estimates, 94, 96
Peller, Dr. Sigismund, 22
Penck's population estimates, 94, 96
Pennsylvania, experiments with sterilization, 219
Peterson, George M., 129
Phillips, Dr. John C., 172
Physical consequences of sterilization, 52
Physiological aspects of contraception, 18, 237-240
Pitkin's population estimates, 94, 107
Plato's theory of population restriction, 74-76
Pope Benedict XIV, 219
Pope Pius XI, 42, 261
"Population; A Study of Malthusianism," — Thompson, 126
Population and economic development, 145-147
Population and economic development, law of secular diminishing returns, 90, 103-107
— Malthus' conclusions, 84-85
— of the United States, estimates of the future, 94-97
— optimum concept of, 90
— Ortes' studies, 83
— policies, national, 225-231
— study and theories in ancient days, 72-83
— Süssmilch's theories, 83
— the optimum fantasy, 136-141
"Population,"—Wright, 105
Power energy of the world, 134
Pregnancy not harmful to normal woman, 165
"Pre-Malthusian Doctrines of Population," 73
"Principles of Political Economy,"—Sidgwick, 137
"Principles of Population, The" —Malthus, 84
"Problems of Overpopulation," —Sanger, 158
Propaganda for birth-prevention, 5-10
Prostitution and contraception, 186
Psychiatrical aspects of contraception, 18
Psychological consequences of contraceptive practice, 237-240

Radcliffe College graduates, analysis of families of, 175
Rahts, Johannes, 119
"Reflections upon Population"—Ortes, 83
Remer Bill, action of Kings County Medical Society, 67
Remer Bill in New York Assembly, 64
"Review of Economic Theory, A"—Cannan, 137

# INDEX

Reynolds, Dr. Edward, 24
Ribbing, Dr. ——, 251
Ricardo, David, 85
Robbins, Lionel, 137, 143
Rome, ancient theories of population control, 78, 79
Ross's population estimates, 97, 105, 111
Rudnick, Dr. Dorrin F., 15, 17
Russia, population policy of, 230
Ryan, Dr. John A., 202

"Safe Period," the, 42
Salpingectomy, 52
Sanger, Mrs. Margaret, 9, 210
Self-control as birth control, 5
Sellheim, Professor, 23
Sex literature, 38, 39
Sexual continence, 43-46
—indulgence, morality of, 199-203
"Sexual Life of Woman, The"—Kisch, 36, 251
Sharlieb, Dr. Mary, 258
Shaw, George Bernard, 42
Sidgwick, Henry, 137
"Small-family" ideal, 159
Small vs. large families, 164
Smith College graduates, analysis of families of, 175
"Standing Room Only,"—Ross, 97, 105
State laws on contraception, 212
State's responsibility, 231
Sterility a resultant of contraception, 19, 24, 26
— prevalence of, 235
Sterilization, 51-58, 266, 269-277
Sterilization and abortion, law on, 215, 287-296
— attitude of Catholic Church, 56, 261
— and mental deficiency, 274
— common procedures for, 52
Sterilization and abortion, Indiana law on, 219
— Kansas law on, 219
— Massachusetts experiments, 53
— Nebraska laws, 56
— of the feebleminded, 54-56
—Oregon laws, 56
— physical consequences of, 52
— State laws enacted, 55
Süssmilch, Peter, 83
Sutherland, Dr. Halliday, 253
Sweden, female fertility in, 120

Taylor, Griffith, population estimates, 96
Thompson, Warren S., 105, 126
"Towards Moral Bankruptcy,"—Bureau, 42, 45, 180
"Trend of the Race, The"—Holmes, 166
Trial marriage, 186
"Two-child family, the," 160-166

Unemployment, not chargeable to overpopulation, 144
United States, fall of birth-rate in, 112, 115
— farm census reports, 125
— female fertility in, 120
— laws *in re* contraception, 278
— population, estimates for the future, 94-97
— wheat question in, 124-126, 151
Uterus, the "Malthusian," 25

Van Bouwdijk-Bastiaanse, Dr. M. A., 22, 29
Vasectomy, 52
Vassar graduates, analysis of families of, 174
Virginia sterilization law, 221

# INDEX

Voluntary Parenthood League, 209

Wellesley College graduates, analysis of families of, 175
West, Sir Edward, 102
Wheat question in the United States, 124-126, 151
Whitney, Leon F., 169, 170
Williams, Dr. J. Whitridge, 47, 65
Wolfe, A. B., 138
Women, classification with respect to potential motherhood, 176
Woodward, Dr. William C., 63, 211
World's food supply possibility, 124-130
Wright, Harold, 105, 137

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